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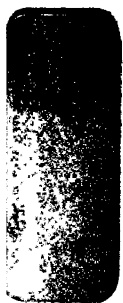
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THE
INDIAN STAMP ACT

of
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NO. II. OF 1899,

WITH

NOTES SHOWING THE DIFFERENCE BETWEEN THE OLD
ACT AND THE NEW ACT, ALL NEW OR MODIFIED
PROVISIONS BEING PRINTED IN ITALICS:

OUTER MARGINAL NOTES OPPOSITE EACH SECTION
AND EACH ARTICLE OF SCH. I., SHOWING
THE CORRESPONDING SECTION AND
ARTICLE IN THE OLD ACT:

MOVER'S SPEECH ON THE INTRODUCTION OF THE BILL,
REPORT OF THE SELECT COMMITTEE, AND THE
PROCEEDINGS IN COUNCIL:

A DIGEST OF ALL RULINGS (CIVIL AND CRIMINAL)
ON THE STAMP LAW FROM THE EARLIEST
TIMES DOWN TO 31ST DECEMBER 1898:

AND

A MOST ELABORATE INDEX

COMPILED BY

D. E. CRANENBURGH,
PLEADER.

Calcutta:

PRINTED AND PUBLISHED BY E. W. ELLOY
AT THE "LAW-PUBLISHING PRESS,"
3 TO 5, BOW BAZAR LANE.

1899.

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[I. C. Acts, 1899.—(a.)

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PREFACE.

IN issuing this edition of the new Stamp Act (II. of 1899), the compiler has, with the view of rendering it more useful, inserted the following :—

(1.) All modifications and additions, which are printed in italics, so that the difference between the old Act and the new Act may be seen at a glance.

(2.) Every section or portion of a section which has altogether been omitted from the new Act, such section or portion being reproduced in small type as footnotes.

(3.) The corresponding section and the corresponding article of the old Act, such section and article being printed as outer marginal notes opposite the corresponding section and article of the new Act.

(4.) The Report of the Select Committee and the Proceedings of the Legislative Council.

(5.) A complete Digest of Rulings on the Stamp Law from the earliest times down to 31st December 1898.

(6.) A comprehensive General Index.

D. E. CRANENBURGH.

February 25, 1899.

ACT NO. II. OF 1899.
THE INDIAN STAMP ACT, 1899.

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SCHEDULE I.—STAMP-DUTY ON INSTRUMENTS.

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ACT NO. II. OF 1899.

THE INDIAN STAMP ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Governor-General's assent on the 27th January 1899.

An Act to consolidate and amend the Law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows:—

The words in italics throughout this Act indicate additions and modifications.

CHAPTER I.

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Act may be called the Indian Stamp Act, 1899. S. 1, Act 1. of 1879.

(2) It extends to the whole of British India *inclusive of Upper Burma, British Baluchistan, the Santal Parganas, and the Pargana of Spiti*; and

(3) It shall come into force on the first day of *July 1899*.

S. 2 of the old Act has been repealed.—See the General Clauses Act (X. of 1897), ss. 6, 8, and 24. The repealed section (as partially repealed by Act XII. of 1891) ran as follows:—

"2. *Saving of things done under former Act.*—All rules made under the General Stamp Act, 1869, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto, shall be deemed to be made to this Act.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context— S. 3, Act 1. of 1879.

(1) "**Banker**" includes a bank and any person acting as a banker :

S. 3 (1), Act 1. of 1879.

(2) "**Bill of exchange**" means a bill of exchange as defined by the *Negotiable Instruments Act, 1881*,* and includes also a hundi and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money : S. 3 (2), Act 1. of 1879, revised with 54 & 55 Vict., c. 39, s. 32.

In the old Act the definition of "bill of exchange" was merely this: "'Bill of exchange' includes a hundi."

(3) "**Bill of exchange payable on demand**" includes—

54 & 55 Vict., c. 39, s. 32.

(a) *an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;*

(b) *an order for the payment of any sum of money weekly, monthly, or at any other stated periods ; and*

* Act XXVI. of 1881.

(c) *a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn :*

S. 3 (3), Act
I. of 1879, re-
vised.

(4) **"Bill of lading"** includes a *"through bill of lading,"* but does not include a *mate's receipt :*

In the old Act, the definition of "bill of lading" was as follows : *"'Bill of lading' means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated."*

S. 3 (4), Act
I. of 1879.

(5) **"Bond"** includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness, and not payable to order or bearer, whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another :

In the above definition of "bond," the italicized word *includes* has been substituted for the word *"means."*

S. 3 (5), Act
I. of 1879.

(6) **"Chargeable"** means, as applied to an instrument executed or first executed after *the commencement of this Act*, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed :

The words, *"after the commencement of this Act,"* have been substituted for the words, *"after this Act comes into force."*

S. 3 (6), Act
I. of 1879, re-
vised with s. 6,
Act XXVI. of
1881.

(7) **"Cheque"** means a bill of exchange drawn on a *specified* banker, and *not expressed to be payable otherwise than on demand :*

The italicized words in the above definition are new.

S. 3 (7), Act
I. of 1879.

(8) **"Chief Controlling Revenue-authority"** means—

(a) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue ;

(b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner ;

(c) in Sindh—the Commissioner ;

(d) in the Punjab and Burma, including Upper Burma—the Financial Commissioner ; and

(e) elsewhere—the Local Government, or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf ;

In cl. (d), the italicized words are new.

In cl. (e), after the words, *"appoint in this behalf,"* the words, *"by name or in virtue of his office,"* have been omitted.

(9) "Collector"—

S. 3 (8), Act I. of 1879.

(a) means, within the limits of the towns of Calcutta, Madras, and Bombay, the Collector of Calcutta, Madras, and Bombay, respectively, and, without those limits, the Collector of a district, and

(b) includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official Gazette, appoint in this behalf :

In cl. (b), after the words, "appoint in this behalf," the words, "by name or in virtue of his office," have been omitted.

(10) "Conveyance" *includes a conveyance on sale and every instrument by which property, whether moveable or immovable, is transferred inter vivos, and which is not otherwise specifically provided for by Schedule I.* S. 3 (9), Act I. of 1879.

The old definition of "conveyance" was as follows : "(9) 'Conveyance' means any instrument by which property (whether moveable or immovable) is transferred on sale."

(11) "Duly stamped," as applied to an instrument, means *that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and that such stamp has been affixed or used in accordance with the law for the time being in force in British India.* S. 3 (10), Act I. of 1879, revised.

In the old Act, the definition of "duly stamped" was as follows : "(10) 'Duly stamped,' as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed."

(12) "Executed" and "execution," *used with reference to instruments, mean "signed" and "signature."* S. 54 & 55, Vict., c. 39, s. 122 (1). New.

(18) "Impressed stamp" *includes—*

(a) *labels affixed and impressed by the proper officer, and*

(b) *stamps embossed and engraved on stamped paper.*

(14) "Instrument" *includes every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished, or recorded.* S. 54 & 55, Vict., c. 39, s. 122.

(15) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition : S. 3 (11), Act I. of 1879.

The italicized words in the above definition are new.

(16) "Lease" means a lease of immovable property, and includes also— S. 3 (12), Act I. of 1879.

(a) a patta ;

(b) a kabuliyat or other undertaking in writing, not being a counter-part of a lease, to cultivate, occupy, or pay or deliver rent for, immovable property ;

(c) any instrument by which tolls of any description are let ;

(d) any writing on an application for a lease intended to signify that the application is granted :

(17) "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an S. 3 (13), Act I. of 1879.

existing or future debt, or the performance of an engagement, one person transfers or creates, to or in favour of another, a right over *or in respect of* specified property:

The italicized words, *or in respect of*, are new.

S. 3 (14),
Act I. of 1879.

(18) "**Paper**" includes vellum, parchment, or any other material on which an instrument may be written:

S. 3 (15),
Act I. of 1879,
revised.

(19) "**Policy of insurance**" includes—

- (a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage, or liability arising from an unknown or contingent event;
- (b) a life-policy, *and any policy insuring any person against accident or sickness, and any other personal insurance*; and
- (c) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months:

In the above definition of "policy of insurance," the italicized word *includes* has been substituted for the word "means." In cl. (b) the italicized words are new.

S. 3 (15), last
2 paras., Act
I. of 1879.

(20) "**Policy of sea-insurance**" or "*sea-policy*"—

- (a) means any insurance made upon any ship or vessel (*whether for marine or inland navigation*), or upon the machinery, tackle, or furniture of any ship or vessel, or upon any goods, merchandise, or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to, any ship or vessel, and
- (b) includes any insurance of goods, merchandise, or property for any transit which includes, not only a sea-risk *within the meaning of clause (a)*, but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance:

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise, or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise, or property from any risk, loss, or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance:

In the former Act the definition of "policy of sea-insurance" was included in the definition of "policy of insurance," and was immediately after sub-clause (c) of the present cl. (19), and ran thus: ". . . It (*i.e.*, policy of insurance) includes also a policy of sea-insurance, such a policy (a) meaning any insurance made upon any ship or vessel," &c. The rest of the words are in sub-clauses (a) and (b), and in the last para. of cl. (20), except the italicized words, which are new.

S. 3 (16), Act
I. of 1879.

(21) "**Power-of-attorney**" includes any instrument (not chargeable with a fee under the law* relating to court-fees for the time being in force) empowering a specified person to act *for, and in the name of*, the person executing it:

* Act VII. of 1870.

In the definition of "power-of-attorney," the italicized word *includes* has been substituted for the word "means;" the italicized words, *for*, *and*, after "act," are new; and the italicized word *name* has been substituted for "stead."

(22) "**Promissory note**" means a promissory note as defined by the *Negotiable Instruments Act, 1881*; * 54 & 55 Vict., c. 39, s. 33.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen:

(28) "**Receipt**" includes any note, memorandum, or writing—

(a) whereby any money, or any bill of exchange, cheque, or promissory note is acknowledged to have been received, or

(b) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(d) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person; and

S. 3 (17), Act I. of 1879, omitting the words "or advertisement" after the word "writing."—Cf. 54 and 55 Vict., c. 39, s. 100.

In the definition of "receipt," the italicized word *includes* has been substituted for the word "means." The definition of the word "schedule" has here been omitted.—See the General Clauses Act (X. of 1897), s. 3.

(24) "**Settlement**" means any non-testamentary disposition, in writing, of moveable or immoveable property, made— S. 3 (19), Act I. of 1879.

(a) in consideration of marriage,

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(c) for any religious or charitable purpose:

and includes an agreement in writing to make such a disposition.

The definitions of "vessel," and of "written" and "writing," have here been omitted.—See the General Clauses Act (X. of 1897), s. 3.

The following section of the old Act has also been omitted [see the General Clauses Act (X. of 1897), s. 3 (48)]:—

"4. *Schedules to be read as part of Act.*—The schedules and everything therein contained should be read and construed as part of this Act."

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

3. Subject to the provisions of this Act and the exemptions contained in S. 5, Act I. Instruments chargeable with duty. Schedule I., the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say—

* Act XXVI. of 1881.

(a) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July, 1899 ;

(b) every bill of exchange, cheque, or promissory note drawn or made out of British India on or after that day, and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in British India ; and

(c) every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India :

New. *Provided that no duty shall be chargeable in respect of—*

General exemption, Sch. II., Act I. of 1879. (i) any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument ;

New. (2) any instrument for the sale, transfer, or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part-interest, share, or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894,* or under Act XIX. of 1838, or the Indian Registration of Ships Act, 1841,† as amended by subsequent Acts.

S. 6, Act I. of 1879. 4. (1) Where, in the case of any sale, mortgage, or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I., for the conveyance, mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument :

New. *Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.*

In sub-s. (2), the italicized words and figure, sub-section (1), have been substituted for the words, "this section."

S. 7 (para. 1), Act I. of 1879. 5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

S. 7 (para. 2), Act I. of 1879. 6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I. shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

* 57 & 58 Vict., c. 60.

† Act X. of 1841.

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

In s. 6, the italicized words, *last preceding*, have been substituted for the words, "first clause of this" (the first clause now being s. 5); the italicized words, *Provided that*, for "but;" and the italicized words, *in this Act*, for "herein."

7. (1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894*) shall be valid unless the same is expressed in a *sea-policy*. S. 7A, Act I. of 1879.

(2) No *sea-policy* made for time shall be made for any time exceeding twelve months.

(3) No *sea-policy* shall be valid unless it specifies the particular risk or adventure, or the time for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage, and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

In s. 7. the italicized figures 506 have been substituted for the figures "55;" the words and figures, "Merchant Shipping Act, 1894," have been substituted for the words and figures, "Merchant Shipping Act Amendment Act, 1862;" and the word *sea-policy*, has throughout been substituted for the words, "policy of sea-insurance."

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loans Act, 1879,† or of any other law for the time being in force, by the issue of bonds, debentures, or other *securities*, shall, in respect of such loan, be chargeable with a duty of eight annas per centum on the total amount of the bonds, debentures, or other *securities* issued by it, and such bonds, debentures, or other *securities* need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, subdivision, or otherwise. S. 7B, Act I. of 1879.

(2) The provisions of sub-section (1) exempting certain bonds, debentures, or other *securities* from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures, or other *securities* of all outstanding loans of the kind mentioned therein, and all such bonds, debentures, or other *securities* shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures, or other *securities*, from the duty chargeable in respect thereof prior to the twenty-sixth day of March 1897, when such duty has not already been paid or remitted by order issued by the Governor-General in Council.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues. S. 54 & 55 Vict., c. 59, s. 115 (5).

In s. 8, the italicized word *securities*, wherever it occurs, has been substituted for the word "certificates."

* 57 & 58 Vict., c. 60.

† Act XI. of 1879.

I. C. Acts, 1899.—(3.)

In the proviso, the italicized words, *by the Governor-General in Council*, have been substituted for the words, "under this Act."

Cl. (3) is new.

S. 8, Act I.
of 1879.

Power to reduce, remit, or
compound duties.

9. The Governor-General in Council may, by
rule or order published in the Gazette of India,—

- (a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments, when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and
- (b) *provide for the composition or consolidation of duties in the case of issues, by any incorporated company or other body corporate, of debentures, bonds, or other marketable securities.*

In s. 9, the italicized words, *rule or*, are new.

The old cl. (b) was as follows : "(b) cancel or vary such order to the extent of the powers hereby given."

B.—Of Stamps and the Mode of using them.

S. 9, Act I.
of 1879.

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

- (a) according to the provisions herein contained, or,
- (b) when no such provision is applicable thereto—as the Governor-General in Council may by rule direct.

"Sub-section (1)" substituted for "this section."

(2) The rules made under *sub-section (1)* may, among other matters, regulate—

- (a) in the case of each kind of instrument—the description of stamps which may be used ;
- (b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;
- (c) in the case of *bills of exchange or promissory notes written in any Oriental language*—the size of the paper on which they are written.

The italicized words in cl. (c) have been substituted for the word "hundis."

S. 10, Act I.
of 1879.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely:—

- (a) instruments chargeable with the duty of one anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets ;
- (b) bills of exchange, cheques, and promissory notes drawn or made out of British India ;
- (c) entry as an advocate, vakil, or attorney on the roll of a High Court ;
- (d) notarial acts ; and
- (e) transfers by endorsement of shares *in any incorporated company or other body corporate.*

The italicized words in cl. (e) have been substituted for the words, "of public Companies and Associations."

12. (1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty, and which has been executed by any person, shall, when affixing such stamp, cancel the same so that it cannot be used again; and

S. 11, Act I. of 1879.

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) *The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials, or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.*

New.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument, and cannot be used for or applied to any other instrument.

S. 12, Act I. of 1879.

14 No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

S. 13, Act I. of 1879.

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

S. 14, Act I. of 1879.

In s. 15, the words and figures, "section 13 or section 14," have been substituted for the words and figures, "section 12 or 13."

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument *by endorsement under the hand of the Collector or in such other manner (if any) as the Governor-General in Council may by rule prescribe.*

S. 15, Act I. of 1879.

In s. 16, the words italicized are new.

C.—Of the Time of stamping Instruments.

17. All instruments chargeable with duty, and executed by any person in British India, shall be stamped before or at the time of execution.

S. 16, Act I. of 1879.

18. (1) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque, or promissory note, may be stamped within three months after it has been first received in British India.

S. 17, Act I. of 1879.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, *who* shall stamp the same in such manner as the Governor-General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

In s. 18 (2), the italicized word *who* has been substituted for *and he*.

S. 18, Act I.
of 1879.

19. The first holder in British India of any bill of exchange, cheque, or Bills, cheques, and notes promissory note drawn or made out of British India drawn out of British India. shall, before he presents the same for acceptance or payment, or endorses, transfers, or otherwise negotiates the same in British India, affix thereto the proper stamp, and cancel the same :

Provided that—

(a) if, at the time any such bill of *exchange*, cheque, or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled.

(b) Nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

In the proviso, the italicized words *of exchange* are new, and the italicized figures 12 have been substituted for 11.

D.—Of Valuations for Duty.

S. 19 of the old Act has been omitted. It ran as follows :—

" 19. *Conversion of amount expressed in certain currencies.*—Where an instrument is chargeable with *ad-valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs, or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale :—

" One pound sterling or pound currency is equivalent to ten rupees :

" One hundred francs are equivalent to forty rupees :

" One Mexican or China dollar is equivalent to two rupees four annas."

S. 20, Act I.
of 1879.

20. (1) Where an instrument is chargeable with *ad-valorem* duty in respect of any money expressed in any *currency other than that of British India*, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

New.

(2) *The Governor-General in Council may from time to time, by notification in the Gazette of India, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).*

In s. 20 (1), the italicized words in lines 2 and 3 have been substituted for the words, "other foreign or colonial currency."

S. 21, Act I.
of 1879.

21. Where an instrument is chargeable with *ad-valorem* duty in respect of any stock or of any marketable *or other* security, such duty shall be calculated on the value of such stock or security according to the average price *or the value* thereof on the day of the date of the instrument.

In s. 21, the words *or other* and *or the value* are new,

22. Where an instrument contains a statement of current rate of exchange S. 22, Act I.
 Effect of statement of rate or average price, as the case may require, and is of 1879.
 stamped in accordance with such statement, it shall,
 so far as regards the subject-matter of such statement, be presumed, until the
 contrary is proved, to be duly stamped.

23. Where interest is expressly made payable by the terms of an instru- S. 23, Act I.
 Instruments reserving in- ment, such instrument shall not be chargeable with of 1879.
 interest. duty higher than that with which it would have been
 chargeable had no mention of interest been made therein.

24. Where any property is transferred to any person in consideration, S. 24, Act I.
 wholly or in part, of any debt due to him, or subject, of 1879.
 How transfer in considera- either certainly or contingently, to the payment or
 tion of debt, or subject to transfer of any money or stock, whether being or con-
 future payment, etc., to be stituting a charge or incumbrance upon the property
 charged. or not, such debt, money, or stock is to be deemed the whole or part, as the case
 may be, of the consideration in respect whereof the transfer is chargeable with
ad-valorem duty :

*Provided that nothing in this section shall apply to any such certificate of Cf. s. 5, Act
 sale as is mentioned in article 18 of Schedule I. VI. of 1894.*

*Explanation.—In the case of a sale of property subject to a mortgage or New.
 other incumbrance, any unpaid mortgage-money or money charged, together with the
 interest (if any) due on the same, shall be deemed to be part of the consideration
 for the sale :*

*Provided that, where property subject to a mortgage is transferred to the New.
 mortgagee, he shall be entitled to deduct from the duty payable on the transfer the
 amount of any duty already paid in respect of the mortgage.*

Illustrations.

New.

(1.) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and
 the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2.) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000,
 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(3.) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards
 buys the house from A. Stamp-duty is payable on Rs. 10,000, less the amount of stamp-
 duty already paid for the mortgage.

In s. 24, the italicized portion (including the illustrations) is new.

25. Where an instrument is executed to secure the payment of an annuity S. 25, Act I.
 Valuation in case of annui- or other sum payable periodically, or where the con- of 1879.
 ty, etc. sideration for a conveyance is an annuity or other
 sum payable periodically, the amount secured by such instrument or the con-
 sideration for such conveyance (as the case may be) shall, for the purposes of
 this Act, be deemed to be—

(a) where the sum is payable for a definite period so that the total
 amount to be paid can be previously ascertained—such total
 amount ;

(b) where the sum is payable in perpetuity, or for an indefinite time not
 terminable with any life in being at the date of such instrument
 or conveyance—the total amount which, according to the terms

of such instrument or conveyance, will or may be payable during the period of twenty years *calculated from the date on which the first payment becomes due*; and

- (c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the *maximum* amount which will or may be payable as aforesaid during the period of twelve years *calculated from the date on which the first payment becomes due*.

In cls. (b) and (c), the italicized words, *calculated from the date on which the first payment becomes due*, have been substituted for the words, "next after the date of such instrument or conveyance;" while, in cl. (c), the italicized word *maximum* has been substituted for the word "total."

S. 26, Act I.
of 1879.

26. Where the amount or value of the subject-matter of any instrument

Stamp where value of subject-matter is indeterminate. chargeable with *ad-valorem* duty cannot be, or (in the case of an instrument executed before *the commencement of this Act*) could not have been, ascertained, at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient :

Provided that, in the case of the lease of a mine in which a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such share, for the purpose of stamp-duty, at twenty thousand rupees a year, and the whole amount of such share, whatever it may be, shall be claimable under such lease :

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

In s. 26, the italicized words, *the commencement of this Act*, have been substituted for the words, "this Act comes into force;" and the two provisos are new.

S. 27, Act I.
of 1879.

27. The consideration, if any, and all other facts and circumstances affect-

Facts affecting duty to be set forth in instrument. ing the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

S. 28, Act I.
of 1879, *pro-*
vided being
substituted
for "so."

28. (1) Where any property has been contracted to be sold for one con-

Direction as to duty in case of certain conveyances. sideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, *provided* that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad-valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad-valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property, but Cl. (c). not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad-valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser:

(4) Where a person having contracted for the purchase of any property, but Cl. (d). not having obtained a conveyance thereof, contracts to sell the whole or any part thereof to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad-valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad-valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the Cl. (e). person immediately selling to him, which is chargeable with *ad-valorem* duty in respect of the consideration paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable. **29.** In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

S. 29, Act I. of 1879—Nos. of articles altered, and subjects set out.

(a) in the case of any instrument described in any of the following articles of Schedule I., namely:—

- No. 2. (*Administration Bond*),
- No. 6. (*Agreement to mortgage*),
- No. 13. (*Bill of exchange*),
- No. 15. (*Bond*),
- No. 16. (*Boltonry Bond*),
- No. 26. (*Customs Bond*),
- No. 27. (*Debenture*),
- No. 32. (*Further charge*),
- No. 34. (*Indemnity Bond*),
- No. 40. (*Mortgage-deed*),
- No. 49. (*Promissory note*),
- No. 55. (*Release*),
- No. 56. (*Respondentia Bond*),
- No. 57. (*Security Bond or mortgage-deed*),
- No. 58. (*Settlement*),
- No. 62. (a) (*Transfer of shares in an incorporated company or other body corporate*),

(b) *Transfer of debentures being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8,*

(c) *Transfer of any interest secured by a bond, mortgage-deed, or policy of insurance,*

by the person drawing, making, or executing such instrument :

- Cf. cl. (b). (b) in the case of a policy of insurance—by the *person effecting the insurance* :
- Cl. (c). (c) in the case of a conveyance (*including a re-conveyance of mortgaged property*)—by the grantee; in the case of a lease or agreement to lease—by the lessee or intended lessee :
- Cl. (f). (d) in the case of a counterpart of a lease—by the lessor :
- Cl. (g). (e) in the case of an instrument of exchange—by the parties in equal shares :
- Cl. (d). (f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates ; and
- Cl. (e). (g) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the *whole* property *partitioned*, or, when the partition is made in execution of an order passed by a Revenue-authority, or *Civil Court*, or *arbitrator*, in such proportion as such authority, *Court*, or *arbitrator* directs.

In s. 29, cl. (a) has been substituted for the original, which was as follows : "(a) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57, and 60 (a) and (b) of the first schedule by the person drawing, making, or executing such instrument : "

In cl. (b), the italicized words have been substituted for "insured."

In cl. (c), the italicized words are new.

In cl. (g), the italicized word *whole* is new, and the italicized word *partitioned* has been substituted for *comprised therein*, and the remaining italicized words have been added.

S. 58, Act I. of 1879, the italics only being newly added.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque, or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or *part-satisfaction* of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note, or property, give a duly-stamped receipt for the same.

In s. 30, the italicized words, or *part-satisfaction*, are new.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

S. 30, Act I. of 1879.

31. (1) When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees, and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) *For this purpose the Collector may* require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

- (a) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and
- (b) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty *which* he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

The italicized words in s. 31 (2) have been substituted for the words, "and may for this purpose ;" and the italicized word *which* in cl. (b) of the proviso is new.

32. (1) When an instrument brought to the Collector under section 31 is, S. 31, Act I.

Certificate by Collector. in his opinion, one of a description chargeable with of 1879.
duty, and

- (a) the Collector determines that it is already fully stamped, or
- (b) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be ; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped :

Provided that nothing in this section shall authorize the Collector to endorse—

- (a) any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ;
- (b) any instrument executed or first executed out of British India, and brought to him after the expiration of three months after it has been first received in British India ; or
- (c) any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

In cl. b of s. 32 (1), the italicized figures 31 have been substituted for the figures "30;" and the italicized words *Provided that* in the proviso have been newly added.

It being unnecessary now, the old s. 32 has here been omitted. It ran as follows:—

"32 *Payment of fees under section 30 how made.*—Every payment of a fee under section 30 shall be made in stamps or cash, as the Governor-General in Council may by rule direct."

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

S. 33, Act I.
of 1879.

33. (1) Every person having, by law or consent of parties, authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable, and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, *if he does not think fit so to do*, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure, 1898: *

(b) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(a) *the Governor-General in Council may determine what offices shall be deemed to be public offices, and*

(b) the Local Government may determine who shall be deemed to be persons in charge of public offices.

In cl. (a) of the proviso to s. 33 (2), the italicized words are new.

New.

34. *Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may, in his discretion, instead of impounding the instrument, require a duly-stamped receipt to be substituted therefor.*

Special provision as to unstamped receipts.

S. 34, Act I.
of 1879.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having, by law or consent of parties, authority to receive evidence, or shall be acted upon, registered, or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Instruments not duly stamped inadmissible in evidence, etc.

* Act V. of 1898.

Provided that—

- (a) any such instrument not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion; “1st,” omitted at the beginning.
- (b) where any person, from whom a stamped receipt could have been demanded, has given an unstamped receipt, and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it; New.
- (c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters, and any one of the letters bears the proper stamp, the contracts or agreement shall be deemed to be duly stamped; New.
- (d) nothing herein contained shall prevent the admission of any instrument and in certain criminal proceedings; in a Criminal Court other than a proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure, 1898; * “2nd,” omitted at the beginning.
- (e) nothing herein contained shall prevent the admission of any instrument and when executed by or on behalf of Government. in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act. New.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped. Cl. (3) of proviso to s. 34, Act I. of 1879.

In s. 36, the italicized word *where* has been substituted for *when*, and the italicized figures 61 have been substituted for 50.

37. The Governor-General in Council may make rules providing that, where an instrument bears a stamp of sufficient amount, but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution. New.

38. (1) When the person impounding an instrument under section 33 S. 35, Act I. has, by law or consent of parties, authority to receive evidence, and admits such instrument in evidence upon payment of a penalty as provided by section 35, or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and

* Act V. of 1898.

penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Collector.

In s. 38 (1), the italicized figures and words have been substituted for the figures "34."

S. 36, Act I.
of 1879.

39. (1) When a copy of an instrument is sent to *the* Collector under section 38, sub-section (1), he may, if he thinks fit, upon application made to him in this behalf, *or, if no application is made, with the consent of the Chief Controlling Revenue-authority*, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, *the Collector* may refund the whole penalty so paid.

In s. 39, sub s. (1), line 1, the italicized word *the* has been substituted for the letter "a;" the italicized words and figures, *section 38, sub-section (1)*, have been substituted for the words and figures, "the first paragraph of section 35;" and the other italics have been newly added; while the italicized figures 13 and 14 in sub s. (2) have been substituted for the figures "12" and "13," respectively, and the italicized words, *the Collector*, have been substituted for the word "he."

S. 37, Act I.
of 1879.

40. (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), *not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note*, he shall adopt the following procedure:—

(a.) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be.

(b.) If *he* is of opinion that such instrument is chargeable with duty, and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if *he thinks fit*, ten times the amount of the proper duty or of the deficient portion thereof, *whether such amount exceeds or falls short of five rupees*:

In s. 40 (1), the italicized words and figures have been substituted for the words and figures, "the second clause of section 35."

In cl. (b), the italicized word *he* has been substituted for the words, "the Collector;" the italicized words, *he thinks fit*, are new; and the ten words last italicized have been substituted for the words, "exceeds five rupees, then such penalty, not less than five rupees, and not more than ten times the amount of such duty or portion, as he thinks fit."

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

"13" and "14" substituted for "12" and "13" respectively.

(2) Every certificate under clause (a) of *sub-section (1)* shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

"*Sub section (1)*" substituted for "this section."

The last para. of the old s. 37 (now s. 40) has been omitted here. It was as follows: "Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note."

(3) *Where an instrument has been sent to the Collector under section 38, New. sub-section (2), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.*

41. If any instrument chargeable with duty, and not duly stamped, *not S. 38, Act I. of 1879.*
Instruments unduly stamped being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note,
 ed by accident. *is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake, or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount, and proceed as next hereinafter prescribed.*

"Which is" after first "and" in line 1 of s. 40 omitted; the italics newly inserted; and 40 substituted for "37."

42 (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40, *S. 39, Act I. of 1879.*
Endorsement of instruments on which duty has been paid under section 35, 40, or 41.
or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(a) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35 shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary, and has not cancelled such certificate:

(b) nothing in this section shall affect the Code of Civil Procedure,* section 144, clause 3.

"35," "40," and "41" substituted for "34," "37," and "38," respectively.

43. The *taking of proceedings or the payment of a penalty under this S. 40, Act I. of 1879.*
Prosecution for offence against Stamp-law. *chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:*

The words first italicized are new, and the word next italicized, *any*, substituted for "an."

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to

* Act XIV. of 1882,

the Collector that the offence was committed with an intention of evading payment of the proper duty.

"Provided that", substituted for "But."

S. 41, Act I.
of 1879.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40, or section 41, by any person in respect of an instrument, and, by agreement, or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under *this Act* shall be conclusive evidence of the matters therein certified.

New.

(3) *Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties, and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.*

In s. 44, sub-s. (1), the italicized figures 35 have been substituted for 34, and the italicized words and figures, *section 40, or section 41*, have been substituted for the words and figures, "or section 38;" and, in sub-s. (2), the italicized words, *this Act*, have been substituted for the words and figures, "section 29."

S. 42, Act I.
of 1879.

45. (1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

New.

(2) *Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.*

In s. 45 (1), the italicized word *Where* has been substituted for "When," and the figures and words, *35 or section 40*, have been substituted for "34 or 37."

S. 43, Act I.
of 1879.

46. (1) If any instrument sent to the Collector under section 38, sub-section (2), is lost, destroyed, or damaged during transmission, the person sending the same shall not be liable for such loss, destruction, or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may be made of instruments so sent. the same may require a copy thereof to be made at the expense of such first-mentioned person, and authenticated by the person impounding such instrument.

In s. 46 (1), the italicized word *the* has been substituted for the letter *a*, and the other italicized words and figures have been substituted for the words and figures, "the second paragraph of section 35 be."

S. 44, Act I.
of 1879.

47. When any bill of exchange, promissory note, or cheque, chargeable with the duty of one anna, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided,

Power of payer to stamp bills, promissory notes, and cheques received by him unstamped.

may pay the sum payable upon such bill, note, or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note, or cheque shall so far as respects the duty, be deemed good and valid :

The opening words of the section were : " *Whereby any bill of exchange or promissory note chargeable, &c.* "

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note, or cheque.

The italicized words, *Provided that*, have been substituted for " But, " and the next italicized words substituted for " he may have incurred. "

48. All duties, penalties, and other sums required to be paid under this New.

Recovery of duties and Chapter may be recovered by the Collector by distress penalties. and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

49. Subject to such rules as may be made by the Governor-General in S. 51, Act I.

Allowance for spoiled Council as to the evidence to be required, or the en- of 1879.
stamps. quiry to be made, the Collector may, on application

made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

The italicized words have been substituted for the words, " which the Collector may require, allowance shall be made by the Collector. "

- (a) the stamp on any paper inadvertently and undesignedly spoiled, Cl. (a), s. 51,
obliterated, or, by *error in writing or any other means*, rendered Act I. of 1879.
unfit for the purpose intended before any instrument written
thereon is executed by any person :

The italics newly inserted.

- (b) *the stamp on any document which is written out wholly or in part, New.
but which is not signed or executed by any party thereto :*

- (c) *in the case of bills of exchange, cheques, or promissory notes—*

Cl. (b), s. 51,
Act I. of 1879.

- (1) *the stamp on any bill of exchange or cheque signed by or on
behalf of the drawer which has not been accepted or made
use of in any manner whatever, or delivered out of his hands
for any purpose other than by way of tender for acceptance :*
provided that the paper on which any such stamp is im-
pressed does not bear any signature intended as or for the
acceptance of any bill of exchange or cheque to be after-
wards written thereon ;

The italicized words have been substituted for the words, " The stamp used or intended to be used for any bill of exchange, cheque, or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or any way negotiated, issued, or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and. "

Cl. (5), s. 9,
54 & 55 Vict.,
c. 38.

Cl. (c), s. 51,
Act I. of 1879.

(2) *the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever, or delivered out of his hands ;*

(3) the stamp used or intended to be used for any bill of exchange, cheque, or promissory note signed by, or on behalf of, the drawer thereof, but which, from any omission or error, has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly-stamped bill of exchange, cheque, or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque, or note :

Cl. (d), s. 51,
Act I. of 1879.

(d) the stamp used for an instrument executed by any party thereto *which—*

The words, " any of the following instruments, that is to say," after " for," have been omitted, and the word *which* substituted for " but."

(1) *has been* afterwards found to be absolutely void in law from the beginning ;

The words, *has been*, has been inserted ; and the words, " by a competent Court," after the word " found," have been omitted.

(2) *has been* afterwards found unfit, by reason of any error or mistake therein for the purpose originally intended :

(3) by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) by reason of the refusal of any person to act under the same, *or to advance any money intended to be thereby secured*, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

The italicized words are new.

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument *between the same parties, and bearing a stamp of not less value :*

The italicized words have been substituted for " duly stamped."

New.

(7) *is deficient in value, and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :*

Cl. 7, s. 51
(d), Act I. of
1879.

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence, and that the instrument is given up to be cancelled. Cf. 54 & 55 Vict., c. 3, s. 9, proviso (b) to s. 51, Act 1. of 1879.

The above proviso has been substituted for the two provisos to s. 51 of the old Act. They were as follow :—

“ Provided that, in the case of an executed instrument—

- (a) such instrument is given up to be cancelled :
- (b) the application for relief is made within six months after the date of the instrument ; or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument ; and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India :

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.”

Explanation.—The certificate of the Collector under section 32, that the full New. duty with which an instrument is chargeable has been paid, is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made. **50.** The application for relief under section 49 Cf. proviso (b) to s. 51, Act 1. of 1879. must be made within the following periods, that is to say :—

- (1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument ;
- (2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled ;
- (3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that—

- (a) when the spoiled instrument has been, for sufficient reasons, sent out of British India, the application may be made within six months after it has been received back in British India ;
- (b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

51. The Chief Controlling Revenue-authority may, without limit of time, New.

Allowance in case of printed forms no longer required by Corporations. make allowance for stamped papers used for printed forms of instruments by any incorporated company or other body corporate, if, for any sufficient reason, such forms have ceased to be required by the said company or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

S. 52, Act I.
of 1879.

52. (a) When any person has inadvertently used for an instrument chargeable with duty a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or

(b) when any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13,

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

The italicized figures 15 and 13 in cl. (b) have been substituted for "14" and "12," respectively.

S. 53, Act I.
of 1879.

Allowance for spoiled or misused stamps how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(a) other stamps of the same description and value, or

(b) if required and he thinks fit, stamps of any other description to the same amount in value, or,

(c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

S. 54, Act I.
of 1879.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(a) that such stamp or stamps were purchased by such person with a *bond-fide* intention to use them, and

(b) that he has paid the full price thereof, and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

New.

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

In s. 54, the italicized words, or stamps, are new, and the italicized word have has been substituted for "has."

In cl. (a) the italicized words, such stamp or stamps were, have been substituted for the words, "it was ;" and the word them has been substituted for "it."

In cl. (c), line 1, the italicized words, they were, have been substituted for the words, "it was" ; and, in line 2, the italicized words, they were, have been substituted for "it is."

New.

55. When any duly-stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture the value of the stamp on the original or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Collector, and cancelled by him in such manner as the Governor-General in Council may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

- (a) *the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;*
- (b) *the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;*
- (c) *the substitution of the name of the holder at the time of renewal for the name of the original holder, and*
- (d) *the alteration of the rate of interest or the dates of payment thereof.*

CHAPTER VI.

REFERENCE AND REVISION.

Control of and statement of case to Chief Controlling Revenue-authority.

56. (1) *The powers exercisable by a Collector New. under Chapter IV. and Chapter V. shall in all cases be subject to the control of the Chief Controlling Revenue-authority.*

(2) If any Collector, acting under section 31, section 40, or section 41, feels S. 45, Act I. of 1879. doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it with his own opinion thereon for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case, and send a copy of its decision to the Collector, *who* shall proceed to assess and charge the duty (if any) in conformity with such decision.

In s. 56 (2), the italicized figures, 31, 40, and 41, have been substituted for the figures, "30," "37," and "38," respectively; and, in cl. (3), the word "and" before the words, "Such authority," has been omitted; and the italicized word *who* substituted for the words, "and he."

Statement of case by Chief Controlling Revenue-authority to High Court or Chief Court.

57. (1) *The Chief Controlling Revenue-authority S. 46, Act I. of 1879. may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon—*

- (a) *if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be :*
- (b) *if it arises in the North-Western Provinces or Oudh or in Ajmere—to the High Court of Judicature for the North-Western Provinces :*
- (c) *if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the Chief Court of the Punjab :*
- (d) *if it arises in the Central Provinces—to the High Court of Judicature at Bombay :*

(e) if it arises in any other part of British India—to the High Court of Judicature at Fort William.

(2) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and, in case of difference, the opinion of the majority shall prevail.

In s. 57 (1), the italicized figures and word, *56 sub-section (2)*, have been substituted for the figures, "45."

In cl. (b), s. 57 (1), the italicized words, "*or in Ajmere,*" and, in cl. (c), the words, "*or in British Baluchistan,*" are new.

S. 47, Act I.
of 1879.

58. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

S. 48, Act I.
of 1879.

59. (1) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) *The Court* shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

In s. 59 (2), the italicized words, "*The Court,*" have been substituted for the words, "and it," the old section not being divided into two clauses as here.

S. 49, Act I.
of 1879.

60. (1) If any Court other than a Court mentioned in section 57 feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (a) to section 35, the Judge may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue-authority, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the *Chief Controlling Revenue-authority and another like copy to the Judge* making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under *sub-section (1)* when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

In s. 60, the italicized figures, 57 and 35 (wherever they occur), have been substituted for "46" and "34," respectively; while the italicized letter *a* in parentheses is new.

In sub-s. (2), the word "and" before the words, "*Such Court,*" has been omitted; while the italicized words are new.

In sub-s. (3), the italicized expression, *sub-section (1)*, has been substituted for the words "this section."

61. (1) When any Court, in the exercise of its civil or revenue jurisdiction, or any Criminal Court in any proceeding under of 1879.
Revision of certain decisions of Courts regarding the sufficiency of stamps. Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure, 1898,* makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court, may, of its own motion or on the application of the Collector, take such order into consideration.

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that—

(a) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector unless he thinks that the offence was committed with an intention of evading payment of the proper duty :

(b) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

In s. 61 (1), the italicized words are new, and the italicized figures 35 have been substituted for " 34 " throughout the section.

In sub-s. (2), the words first italicized have been substituted for the words, " if it," and the italicized word *it* is new.

In sub-s. (3), the italicized word and figure, sub-section (2), have been substituted for " this section."

In sub-s. (4), the italicized figures 42 and 43 have been substituted for " 39 " and " 40," respectively.

In the proviso, the italicized figures 35 in cl. (a) and 42 in cl. (b) have been substituted for " 34 " and " 39," respectively.

* Act V. of 1898.

CHAPTER VII.

CRIMINAL OFFENCES AND PROCEDURE.

S. 61, Act I.
of 1879.

62. (1) Any person—

(a) drawing, making, issuing, endorsing, or transferring or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying, or receiving payment of, or in any manner negotiating, any bill of exchange, cheque, or promissory note without the same being duly stamped, or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, or

(c) voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be *punishable* with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40, or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

S. 35 (para.
2), Act VI. of
1882.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be *punishable with fine which may extend to five hundred rupees*.

In s. 62, the italicized word *punishable* has been substituted for *punished*; and the italicized figures 35, 40, and 61 in the proviso have been substituted for the figures "34," "37," and "50," respectively.

S. 62, Act I.
of 1879.

63. Any person required by section 12 to cancel an adhesive stamp, and

Penalty for failure to cancel adhesive stamp. failing to cancel such stamp in manner prescribed by that section, shall be *punishable* with fine which may extend to one hundred rupees.

S. 63, Act I.
of 1879.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

(a) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth, or,

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances, or

(c) *does any other act calculated to deprive the Government of any duty or penalty under this Act,*

shall be *punishable* with fine which may extend to five thousand rupees.

In s. 64, the words, "of any duty," after the word "Government," have been omitted; the italicized word *or* at the end of cl. (b) has been added; cl. (c) has been newly inserted, the italicized word *punishable* being substituted for "punished." Throughout the penal clauses, *punishable* has been substituted for *punished*.

S. 64, Act I.
of 1879.

65. Any person who—

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

(a) being required under section 30 to give a receipt, refuses or neglects to give the same, or

- (b) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered,

shall be *punishable* with fine which may extend to one hundred rupees.

66. Any person who—

- (a) receives, or takes credit for, any premium or consideration for any contract of insurance, and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly-stamped policy of such insurance, or

S. 65, Act I. of 1879, *Any* being substituted for "Every."

- (b) makes, executes, or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy,

shall be *punishable* with fine which may extend to two hundred rupees.

67. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or, executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be *punishable* with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets. in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be *punishable* with fine which may extend to one thousand rupees.

S. 66, Act I. of 1879.

68. Any person who—

S. 67, Act I. of 1879.

- (a) with intent to defraud the Government of duty, draws, makes, or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

- (b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays, or receives payment of, such bill or note, or in any manner negotiates the same; or

- (c) with the like intent, practises or is concerned in any act, contrivance, or for other devices to defraud the revenue. device not specially provided for by this Act or any other law for the time being in force,

shall be *punishable* with fine which may extend to one thousand rupees.

In s. 68, the italicized words, *Any person who*, have been substituted for the word "Whoever," and the italicized word *or*, at the end of both the cls. (a) and (b), has been substituted for the words, "and whoever."

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69. (a) Any person appointed to sell stamps who disobeys any rule made under section 74, and

S. 68, Act I. of 1879.

- (b) any person not so appointed who sells or offers for sale any stamp (*other than a one-anna adhesive stamp*),

shall be *punishable* with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

In s. 69, the italicized figures 74 have been substituted for "55," and the italicized words have been added.

S. 69, Act I.
of 1879.

70. (1) No prosecution in respect of any offence punishable under this Institution and conduct of Act or any Act *hereby* repealed shall be instituted prosecutions. without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

New.

(2) The Chief Controlling Revenue-authority, or any officer *generally or specially* authorized by it in this behalf, may stay any such prosecution, or compound any such offence.

(3) *The amount of any such composition shall be recoverable in the manner provided by section 48.*

In s. 70, sub-s. (1), the words, " or the General Stamp Act, 1869,*" after the word " Act " first occurring, have been omitted, and the italicized word *hereby* has been substituted for " thereby ; " and the italicized words in sub-s. (2) have been inserted.

S. 70, Act I.
of 1879, *or*,
being substituted for
" and."

71. No Magistrate other than a Presidency Magistrate *or* a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

S. 71, Act I.
of 1879.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as in any district or presidency-town in which such offence might be tried under the *Code of Criminal Procedure** for the time being in force.

The italicized words, *Code of*, have been substituted for " law relating to. "

Old s. 72 has been omitted here. It ran as follows:—

" 72. *Operation of other laws not barred.*—Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it :

" Provided that no person shall be punished twice for the same offence. "

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

54 & 55 Vict.,
c. 39, s. 16.

73. *Every public officer having in his custody any registers, books, records, Books, etc., to be open to papers, documents, or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall, at all reasonable times, permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents, and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.*

S. 55, Act I.
of 1879.

Powers to make rules relating to sale of stamps.

74. The Local Government, subject to the control of the Governor-General in Council, may make rules for regulating—

- (a) the supply and sale of stamps and stamped papers,
- (b) the persons by whom alone such sale is to be conducted, and
- (c) the duties and remuneration of such persons :

New.

Provided that such rules shall not restrict the sale of one anna adhesive stamps.

" Consistent herewith " after " rules " in line 3 omitted.

* Act V. of 1898.

75. The Governor-General in Council may make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof. S. 56, Act I. of 1879.

The words, "consistent herewith," after the word "rules" in the first line, have been omitted, and the italicized portion has been added.

S. 57 (para. 1) of the old Act has here been omitted. It was as follows:—

"57. *Certain powers exerciseable from time to time.*—All powers to make appointments, rules, and orders conferred by this Act may be exercised from time to time as occasion requires."

76. (1) All rules made under this Act, other than rules made under section 74, shall be published in the *Gazette of India*, and all rules made under section 74 shall be published in the local Gazette. S. 57, para. 2, Act I. of 1879.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

In the first line of s. 76 (1), after the words, "other than rules," the words, "consistent herewith," have been omitted, and the italicized figures, 74, wherever they occur, have been substituted for "55."

In sub-s. (2), the italicized words have been substituted for the words, "the force of law."

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment* for the time being in force relating to court-fees. S. 59, Act I. of 1879.

The italicized words, *in this Act*, have been substituted for "herein."

78. Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy. S. 60, Act I. of 1879.

The italicized words in the above section have been substituted for the words, "cause this Act to be carefully translated into," and the following words have been omitted after the words, "administered by it": "A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public."

Repeal.

79. The Acts mentioned in Schedule II. are repealed to the extent specified in the fourth column thereof. New.

* Act VII. of 1870.

SCHEDULE I.*

STAMP-DUTY ON INSTRUMENTS.

(See section 3.)

	DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
Art. 1, Sch. I.	1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession; <i>provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property</i>	One anna.
Art. 2, Sch. I.	2. ADMINISTRATION-BOND , including a bond given under section 256 of the Indian Succession Act, 1865,† section 6 of the Government Savings Banks Act, 1873,‡ section 78 of the Probate and Administration Act, 1881,§ or section 9 or section 10 of the Succession Certificate Act, 1889 — (a) <i>where the amount does not exceed Rs. 1,000 :</i> (b) <i>in any other case</i>	The same duty as a Bond (No. 15) for such amount. Five rupees.
Art. 38, Sch. I.	3. ADOPTION-DEED , <i>that is to say, any instrument (other than a will) recording an adoption, or conferring or purporting to confer an authority to adopt</i>	Ten rupees.
	ADVOCATE. See ENTRY AS AN ADVOCATE (No. 30).	
Art. 3, Sch. I., and s. 3 (3), Act X., 1897.	4. AFFIDAVIT , <i>including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing</i>	One rupee.

* All additions to, and modifications of, the Schedules in the old Act (1879), are in italics.
† Act X. of 1865.

‡ Act V. of 1873.
§ Act V. of 1881.
|| Act VII. of 1889.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
4. AFFIDAVIT—<i>contd.</i>	
<i>Exemptions.</i>	
Affidavit or declaration in writin when made—	Art. 1, Sch. II.
(a) as a condition of enlistment under the Indian Articles of War* ;	
(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	Art. 5, Sch. I.
(a) if relating to the sale of a Government security, or share in an <i>incorporated</i> Company or other body <i>corporate</i> or a Bill of Exchange...	One anna.
(b) if not otherwise provided for ...	Eight annas.
<i>Exemptions.</i>	
Agreement or memorandum of agreement—	Art. 2, Sch. II.
(a) for or relating to the sale of goods or merchandize exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;	Old cl. (b)— omitted.
(b) made in the form of tenders to the Government of India for or relating to any loan ;	
(c) made under the European Vagrancy Act, 1874,† section 17.	

* Act V. of 1869.

† Act IX. of 1874.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>AGREEMENT TO LEASE. <i>See</i> LEASE (No. 35).</p>	
<p>6. AGREEMENT <i>by way of equitable mortgage, that is to say, any instrument evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property—</i></p> <p>(a) <i>when such loan is repayable more than three months, but not more than one year, from the date of such instrument.</i></p> <p>(b) <i>when such loan is repayable not more than three months from the date of such instrument.</i></p> <p><i>Exemption.</i></p> <p><i>See Exemptions under MORTGAGE-DEED (No. 40).</i></p>	<p><i>The same duty as a Bill of Exchange [No. 13 (b)] for the amount secured.</i></p> <p><i>Half the duty payable on a Bill of Exchange [No. 13 (b)] for the amount secured.</i></p>
<p>7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immovable, where made by any writing not being a Will </p>	<p>Fifteen rupees.</p>
<p>8 APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—</p> <p>(a) <i>where the amount does not exceed Rs. 1,000.</i></p> <p>(b) <i>in any other case</i> </p> <p><i>Exemptions.</i></p> <p>(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties, either by agreement or operation of law.</p>	<p>The same duty as a Bond (No. 15) for such amount.</p> <p>Five rupees.</p>

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
8. APPRAISEMENT OR VALUATION — <i>contd.</i>	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	Art. 4, Sch. II.
9. APPRENTICESHIP-DEED , including every writing relating to the service or tuition of any apprentice, clerk, or servant, placed with any master to learn any profession, trade, or employment, <i>not being</i> ARTICLES OF CLERKSHIP (No. 11).	Art. 31, Sch. I.
<i>Exemption.</i> Instruments of apprenticeship executed by a Magistrate under <i>the Apprentices Act, 1850,*</i> or by which a person is apprenticed by or at the charge of any public charity.	Five rupees. Art. 12 (c), Sch. II.
10. ARTICLES OF ASSOCIATION OF A COMPANY ...	Art. 8, Sch. I.
<i>Exemption.</i> <i>Articles of any Association not formed for profit, and registered under section 26 of the Indian Companies Act, 1882.†</i> <i>See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).</i>	Twenty-five rupees. Art. 11, Sch. II., Notn. No. 5199-S. R., dated 1st November, 1895.
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court ...	Art. 9, Sch. I.
...	Two hundred and fifty rupees.

* Act XIX. of 1850. The former words were, "under Act XIX. of 1850." The "Apprentices Act, 1850," is the short title of Act XIX. of 1850.—See the Indian Short Titles Act (XIV. of 1897).

† Act VI. of 1882.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
ASSIGNMENT. <i>See</i> CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY. <i>See</i> ENTRY AS AN ATTORNEY (No. 30) and POWER-OF-ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. <i>See</i> ADOPTION-DEED (No. 3).	
<p>Art. 10, Sch. I.</p> <p>12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, <i>not being an award directing a partition</i>, on a reference made otherwise than by an order of the Court in the course of a suit—</p> <p>(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ;</p> <p>(b) in any other case </p> <p style="text-align: center;"><i>Exemption.</i></p> <p>Award under the Bombay District Municipal Act, 1873,* section 81, or the Bombay Hereditary Offices Act, 1874,† section 18.</p>	<p>The same duty as a Bond (No. 15) for such amount.</p> <p>Five rupees.</p>
<p>Art. 6, Sch. II.</p> <p>13. BILL OF EXCHANGE [<i>as defined by s. 2 (2) & (3)</i>], not being a BOND, bank-note, or currency-note—</p> <p>(a) <i>where</i> payable on demand * ...</p>	<p>One anna.</p>

"and the amount exceeds Rs. 20," omitted.

* Bom. Act VI. of 1873.

† Bom. Act III. of 1874.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.					PROPER STAMP-DUTY.		
13. BILL OF EXCHANGE— <i>contd.</i>					If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
(b) <i>where payable otherwise than on demand, but not more than one year after date or sight—</i>							
Rs.					Rs. A. P.	Rs. A. P.	Rs. A. P.
if the amount of the bill or note does not exceed ... 200					0 2 0	0 1 0	0 1 0
if it exceeds Rs. 200 and does not exceed 400					0 4 0	0 2 0	0 2 0
Do.	400	do.	600		0 6 0	0 3 0	0 2 0
Do.	600	do.	1,000		0 10 0	0 5 0	0 4 0
Do.	1,000	do.	1,200		0 12 0	0 6 0	0 4 0
Do.	1,200	do.	1,600		1 0 0	0 8 0	0 6 0
Do.	1,600	do.	2,500		1 8 0	0 12 0	0 8 0
Do.	2,500	do.	5,000		3 0 0	1 8 0	1 0 0
Do.	5,000	do.	7,500		4 8 0	2 4 0	1 8 0
Do.	7,500	do.	10,000		6 0 0	3 0 0	2 0 0
Do.	10,000	do.	15,000		9 0 0	4 8 0	3 0 0
Do.	15,000	do.	20,000		12 0 0	6 0 0	4 0 0
Do.	20,000	do.	25,000		15 0 0	7 8 0	5 0 0
Do.	25,000	do.	30,000		18 0 0	9 0 0	6 0 0
and for every <i>additional</i> Rs. 10,000 or part thereof in excess of Rs. 30,000					6 0 0	3 0 0	2 0 0
(c) <i>where payable at more than one year after date or sight</i>					The same duty as a Bond (No. 15) for the same amount.		
14. BILL OF LADING (<i>including a through bill of lading</i>)					Four annas.		
N. B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.							

Art. 12, Sch. I.
For old Art. 14
—see Art. 57
below.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
14. BILL OF LADING—<i>contd.</i>	
<i>Exemptions.</i>	
Art. 7, Sch. II.	(a) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1889,* and are to be delivered at another place within the limits of the same port.
Art. 3, Sch II., Notfn. No. 5199, dated 1st November, 1895.	(b) <i>Bill of lading when executed out of British India, and relating to property to be delivered in British India.</i>
Art. 13, Sch. I.	15. BOND [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870†—
<i>where the amount or value secured does not exceed Rs. 10</i>	
Two annas.	
<i>Where it exceeds Rs. 10 and does not exceed Rs. 50 ...</i>	
Four annas.	
Do. 50 do. 100 ...	Eight annas.
Do. 100 do. 200 ...	One rupee.
Do. 200 do. 300 ...	One rupee eight annas.
Do. 300 do. 400 ...	Two rupees.
Do. 400 do. 500 ...	Two rupees eight annas.
Do. 500 do. 600 ...	Three rupees.
Do. 600 do. 700 ...	Three rupees eight annas.
Do. 700 do. 800 ...	Four rupees.
Do. 800 do. 900 ...	Four rupees eight annas.
Do. 900 do. 1,000 ...	Five rupees.
<i>and for every Rs. 500 or part thereof in excess of Rs. 1,000</i>	
Two rupees eight annas.	

* Act X. of 1889.

† Act VII. of 1870.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
15. BOND— <i>contd.</i>	
See ADMINISTRATION BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	
<i>Exemptions.</i>	
Bond, when executed by—	
(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876,* section 99, for the due performance of their duties under that Act ;	Art. 8 (b) & (c), Sch. II. Old cl. (a)—omitted.
(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION.—INSTRUMENT OF (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for	Art. 15, Sch. I.
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64B).	New.
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue officer—	Art. 16, Sch. I.
(a) where the purchase-money does not exceed Rs. 10	Two annas.

* Ben. Act III. of 1876.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
18. CERTIFICATE OF SALE—contd.	
(b) <i>where the purchase-money exceeds Rs. 10, but does not exceed Rs. 25.</i>	Four annas.
(c) <i>in any other case</i>	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip, or stock in or of any <i>incorporated Company or other body corporate</i> , or to become proprietor of shares, scrip, or stock in or of any <i>such Company or body</i>	One anna.
<i>See also</i> LETTER OF ALLOTMENT OF SHARES (No. 36).	
20. CHARTER-PARTY , that is to say, any instrument (except an agreement for the hire of a tug steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, <i>whether it includes a penalty clause or not</i>	One rupee.
21. CHEQUE [<i>as defined by section 2 (7).</i>]	One anna.
22. COMPOSITION-DEED , that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors	Ten rupees.
23. CONVEYANCE [<i>as defined by section 2 (10)</i>], not being a TRANSFER charged or exempted under No. 62— <i>where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50</i>	Eight annas.

Art. 17,
Sch. I.Art. 18,
Sch. I.Art. 19,
Sch. I.
Art. 20,
Sch. I.Art. 21,
Sch. I.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
23. CONVEYANCE—<i>contd.</i>	
<i>where it exceeds Rs. 50 but does not exceed Rs. 100</i>	One rupee.
<i>Do.</i> 100 <i>do.</i> 200	Two rupees.
<i>Do.</i> 200 <i>do.</i> 300	Three rupees.
<i>Do.</i> 300 <i>do.</i> 400	Four rupees.
<i>Do.</i> 400 <i>do.</i> 500	Five rupees.
<i>Do.</i> 500 <i>do.</i> 600	Six rupees.
<i>Do.</i> 600 <i>do.</i> 700	Seven rupees.
<i>Do.</i> 700 <i>do.</i> 800	Eight rupees.
<i>Do.</i> 800 <i>do.</i> 900	Nine rupees.
<i>Do.</i> 900 <i>do.</i> 1,000	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000	Five rupees.
<i>Exemption.</i>	
Assignment of copyright by entry made under the Indian Copyright Act, 1847,* section 5.	Art. 5, Sch. II.
CO-PARTNERSHIP DEED.—<i>See</i> PARTNERSHIP (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract, by or by order of any public officer, and not chargeable under the law† for the time being in force relating to court-fees—	Art. 22, Sch. I.
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ...	Eight annas.
(ii) in any other case ...	One rupee.

* Act XX. of 1847.

† Act VII. of 1870.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>24. COPY OR EXTRACT—contd.</p> <p><i>Exemptions.</i></p> <p>Art. 9, Sch. II.</p> <p>(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.</p> <p>Art. 9 (b) & (c), Sch. II. Notification No. 5199-S. R., dated 1st November 1895.</p> <p>(b) <i>copies of entries—</i></p> <p>(i) <i>in the certified copies of registers, given under the Births, Deaths, and Marriages Registration Act, 1886,* section 8;</i></p> <p>(ii) <i>in register books, granted by any Registrar of Births and Deaths under the said Act,* section 25; or</i></p> <p>(iii) <i>in registers and records, given under the said Act,* section 35, when applied for by a soldier, sailor, non-commissioned officer, or petty officer;</i></p> <p>(c) <i>copies of, or extracts from, baptismal, marriage, or burial registers certified by Government Chaplains, subsidized or unsubsidized Clergymen, and Diocesan or Marriage Registrars, and granted to soldiers, sailors, or non-commissioned or petty officers.</i></p>	
<p>Art. 23, Sch. I.</p> <p>25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid—</p> <p>(a) if the duty with which the original instrument is chargeable does not exceed one rupee;</p> <p>(b) in any other case ...</p>	<p>The same duty as is payable on the original.</p> <p>One rupee.</p>

* Act VI. of 1886.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
25.—COUNTERPART OR DUPLICATE— <i>contd.</i>	
<i>Exemption.</i>	
Counterpart of any lease granted to a cultivator <i>when such lease is exempted from duty.</i>	Art. 13 (c), Sch. II.
26. CUSTOMS-BOND—	
(a) <i>where the amount does not exceed Rs. 1,000 ...</i>	Art. 24, Sch. I.
The same duty as a Bond (No. 15) for such amount.	
(b) <i>in any other case ...</i>	Five rupees.
27. DEBENTURE (<i>whether a mortgage debenture or not</i>), being a marketable security transferable by delivery, or by endorsement, or by separate instrument of transfer.	The same duty as a Bond (No. 15) for the same amount.
<i>Explanation.—The term Debenture includes any interest-coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.</i>	New.
<i>Exemption.</i>	
A Debenture issued by an incorporated Company or other body corporate in terms of a registered Mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to Trustees for the benefit of the Debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said Mortgage-deed.	
See also BOND (No. 15); and SECTIONS 8 and 55.	
DECLARATION OF ANY TRUST.— See TRUST (No. 64).	

SCHEDULE I.—*continued.*

	DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
Art. 26, Sch. I.	<p>28. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.</p> <p>DEPOSIT OF TITLE-DEEDS.—<i>See AGREEMENT by way of equitable mortgage (No. 6).</i></p> <p>DISSOLUTION OF PARTNERSHIP.—<i>See PARTNERSHIP (No. 46).</i></p>	One anna.
Art. 34, Sch. I.	<p>29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage. </p> <p>DOWER.—<i>Instrument of. See SETTLEMENT (No. 58).</i></p> <p>DUPLICATE.—<i>See COUNTERPART (No. 25).</i></p>	One rupee.
Art. 27, Sch. I.	<p>30. ENTRY AS AN ADVOCATE, VAKIL, OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884*—</p> <p>(a) in the case of an Advocate or Vakild </p> <p>(b) in the case of an Attorney </p> <p><i>Exemption.</i></p> <p>Entry of an advocate, vakild, or attorney on the roll of any High Court when he has previously been enrolled in a High Court.</p>	<p>Five hundred rupees.</p> <p>Two hundred and fifty rupees.</p>

* Act IX. of 1884.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
EQUITABLE MORTGAGE. — <i>See AGREEMENT by way of equitable mortgage (No. 6).</i>	
31. EXCHANGE OF PROPERTY —Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of <i>greatest</i> value as set forth in such Instrument. Art. 35, Sch. I.
EXTRACT. — <i>See COPY (No. 24.)</i>	
32. FURTHER CHARGE —Instrument of, <i>that is to say, any instrument, imposing a further charge on mortgaged property—</i>	Art. 30, Sch. I.
(a) when the original mortgage is one of the description referred to in clause (a) of article No. 40 (<i>that is, with possession</i>);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the <i>further</i> charge secured by such instrument.
(b) when such mortgage is one of the description referred to in clause (b) of article No. 40 (<i>that is, without possession</i>)—	
(i) <i>if, at the time of execution of the instrument of further charge, possession of the property is given, or agreed to be given, under such instrument;</i>	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) <i>if possession is not so given</i> ...	The same duty as a Bond (No. 15) for the amount of the <i>further</i> charge secured by such instrument.
33. GIFT —Instrument of, <i>not being a SETTLEMENT (No. 58) OR WILL or Transfer (No. 62).</i>	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument. Art. 36, Sch. I.
HIRING AGREEMENT or agreement for service.— <i>See AGREEMENT (No. 5).</i>	
34. INDEMNITY-BOND ...	The same duty as a Security Bond (No. 57) for the same amount. Art. 28, Sch. I.

SCHEDULE I.—*continued.*Arts. 4
and 39,
Sch. I.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
INSPECTORSHIP-DEED. — <i>See COMPOSITION-DEED (No. 22).</i>	
INSURANCE. — <i>See POLICY OF INSURANCE (No. 47).</i>	
<p>35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—</p> <p>(a) where, by such lease, the rent is fixed, and no premium is paid or delivered—</p> <p>(i) <i>where the lease purports to be for a term of less than one year :</i></p> <p>(ii) <i>where the lease purports to be for a term of not less than one year, but not more than three years :</i></p> <p>(iii) <i>where the lease purports to be for a term in excess of three years :</i></p> <p>(iv) <i>where the lease does not purport to be for any definite term :</i></p> <p>(v) <i>where the lease purports to be in perpetuity :</i></p> <p>(b) where the lease is granted for a fine or premium or for money advanced, and where no rent is reserved :</p>	<p>The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.</p> <p>The same duty as a Bond (No. 15) for the <i>amount or value of the average annual rent reserved.</i></p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to <i>one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.</i></p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.</p>

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
35—LEASE.—<i>contd.</i>	
(c) where the lease is granted for a fine or premium <i>or for money advanced</i> in addition to rent reserved :	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium <i>or advance</i> as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium <i>or advance</i> had been paid or delivered :
<i>Exemptions.</i>	
(a) Lease, executed in the case of a cultivator, <i>and for the purposes of cultivation (including a lease of trees for the production of food or drink)</i> without the payment or delivery of any fine or premium, when a definite term is expressed, and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees ;	Art. 13, Sch. II.
(b) leases of fisheries granted under the Burma Fisheries Act, 1875,* <i>or the Upper Burma Land and Revenue Regulation, 1889.†</i>	Old (c) transferred to No. 25.
36. LETTER OF ALLOTMENT OF SHARES in any Company or proposed Company, or in respect of any loan to be raised by any Company or proposed Company	Art. 40, Sch. I.
<i>See also</i> CERTIFICATE OR OTHER DOCUMENT (No. 19).	One anna.

* Act VII. of 1875.

† Reg. II. of 1889.

SCHEDULE I.—*continued.*

	DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
Art. 41, Sch. I.	37. LETTER OF CREDIT , that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn ...	One anna.
	LETTER OF GUARANTEE — <i>See</i> AGREEMENT (No. 5).	
Art. 42, Sch. I.	38. LETTER OF LICENSE , that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims, and allow the debtor to carry on business at his own discretion ...	Ten rupees.
Art. 43, Sch. I.	39. MEMORANDUM OF ASSOCIATION OF A COMPANY— (a) <i>if accompanied by Articles of Association under section 37 of the Indian Companies Act, 1882*</i> ... (b) <i>if not so accompanied</i> ...	Fifteen rupees. Forty rupees.
Art. 11, Sch. II. Notfn. No. 5199-S. R., dated 1st November 1895.	<i>- Exemption.</i> <i>Memorandum of any Association not formed for profit, and registered under section 26 of the Indian Companies Act, 1882.*</i>	
Art. 44, Sch. I.	40. MORTGAGE-DEED , not being an AGREEMENT TO MORTGAGE (No. 6), BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY BOND (No. 57)— (a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given : (b) when, at the time of execution, possession is not given or agreed to be given as aforesaid ;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed, The same duty as a Bond (No. 15) for the amount secured by such deed.

* Act VI. of 1882.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>40. MORTGAGE-DEED—contd.</p> <p><i>Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.</i></p> <p>(c) <i>when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security, is duly stamped—</i></p> <p><i>for every sum secured not exceeding Rs. 1,000. ...</i></p> <p><i>and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000 ...</i></p> <p><i>Exemptions.</i></p> <p>(1) <i>Instruments, executed by persons taking advances under the Land Improvement Loans Act, 1883,* or the Agriculturists' Loans Act, 1884,† or by their sureties as security for the repayment of such advances.</i></p> <p>(2) <i>Letter of hypothecation accompanying a bill of exchange.</i></p> <p>(3) <i>Instrument of pledge or pawn of goods if unattested.</i></p>	<p>... .. 54 & 55 Vict., c. 39.</p> <p><i>Eight annas.</i></p> <p><i>Eight annas.</i></p> <p>... .. Art. 12 (a), Sch. II.</p> <p>... .. Art. 14 (b), Sch. II. Old cl. (b) omitted. For old cl. (c), see No. 9.</p> <p>... .. Art. 8 (1), Sch. II. Notn. No. 5199-S.R., dated 1st Nov. 1895.</p>
<p>41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—</p> <p>(a) <i>when the loan is repayable not more than three months from the date of the instrument—</i></p>	<p>... .. Art. 3, Sch. I. Notn. No. 5199-S.R., dated 1st Nov. 1895.</p>

* Act XIX. of 1883.

† Act XII. of 1884.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>41. MORTGAGE OF A CROP—<i>contd.</i></p> <p><i>for every sum secured not exceeding</i> Rs. 200 <i>One anna.</i></p> <p><i>and for every Rs. 200 or part thereof</i> <i>secured in excess of Rs. 200 ...</i> <i>One anna.</i></p> <p><i>(b) when the loan is repayable more</i> <i>than three months, but not more</i> <i>than one year, from the date of</i> <i>the instrument—</i></p> <p><i>for every sum secured not exceeding</i> Rs. 100 <i>Four annas.</i></p> <p><i>and for every Rs. 100 or part thereof</i> <i>secured in excess of Rs. 100 ...</i> <i>Four annas.</i></p>	
<p>Art. 45, Sch. I. 42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry <i>not being a PROTEST (No. 50)</i> made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public</p> <p><i>See also PROTEST OF BILL OR NOTE (No. 50).</i></p>	<p>One rupee.</p>
<p>Art. 46, Sch. I. 43. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock, or marketable security exceeding in value twenty rupees</p>	<p>One anna.</p>
<p>Art. 47, Sch. I. 44. NOTE OF PROTEST BY THE MASTER OF A SHIP ...</p> <p><i>See also PROTEST BY THE MASTER OF A SHIP (No. 51).</i></p> <p>ORDER FOR THE PAYMENT OF MONEY.—<i>See BILL OF EXCHANGE (No. 13).</i></p>	<p>Eight annas.</p>

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.	
45. PARTITION — <i>Instrument of [as defined by s. 2 (15)]</i>	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.	Art. 37, Sch. I.
<i>N. B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value, and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :</i>		
<i>Provided always that—</i>		
(a) <i>when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas ;</i>		
(b) <i>where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue.</i>		Art. 5, Sch. I. Notification No. 5199-S. R., dated 1st November 1895.
(c) <i>where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.</i>		
46. PARTNERSHIP—		Arts. 32 & 33, Sch. I.
A.—INSTRUMENT OF—		
(a) <i>where the capital of the partnership does not exceed Rs. 500</i>	Two rupees eight annas.	
(b) <i>In any other case</i>	Ten rupees.	
B.—DISSOLUTION OF		
	Five rupees.	
47. POLICY OF INSURANCE—		Art. 49, Sch. I.
A.—SEA-INSURANCE (see section 7)—		
(1) <i>for or upon any voyage—</i>		
(i) <i>where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy</i>		One anna.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
47. POLICY OF INSURANCE—<i>contd.</i>	
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy ...	Two annas.
(2) for time—	
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	
where the insurance shall be made for any time not exceeding six months ...	Two annas.
where the insurance shall be made for any time exceeding six months, and not exceeding twelve months ...	Four annas.
B.—FIRE INSURANCE—	
(1) in respect of an original policy—	
<i>for every sum insured, not exceeding Rs. 1,000, and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000, for a period—</i>	
(i) <i>not exceeding one month</i> ...	Two annas.
(ii) <i>exceeding one month, but not exceeding three months</i> ...	Three annas.
(iii) <i>exceeding three months, but not exceeding six months</i> ...	Four annas.
(iv) <i>exceeding six months</i> ...	Six annas.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
47. POLICY OF INSURANCE—<i>contd.</i>	
(2) in respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term, and in respect of which and of the previous renewal whereof (if any) there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months.	<p>The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or</p> <p>the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy and of the previous renewal thereof (if any),</p> <p>whichever is the smaller sum.</p>
C.—ACCIDENT and Sickness Insurance—	<p>Art. 6, Sch. I. Notification No. 5199-S. R., dated 1st November 1895.</p>
(a) <i>against railway accident, valid for a single journey only</i> ...	One anna.
<i>Exemption.</i>	
<i>When issued to a passenger travelling by the intermediate or the third class in any railway.</i>	<p>Art. 12 (b), Sch. II. Noti- fication No. 5199-S. R., dated 1st No- vember 1895.</p>
(b) <i>in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000 or part thereof</i> ...	Two annas.
D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR; except such a RE-INSURANCE as is described in Division E of this article—	
<i>for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—</i>	
(i) <i>if drawn singly</i> ...	Six annas.

SCHEDULE 1.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
47. POLICY OF INSURANCE—<i>contd.</i>	
(ii) if drawn in duplicate, for each part <i>Exemption.</i>	Three annas.
<p>Art. 12, Sch. II. Notification No. 5199-S. R., dated 1st November 1895.</p> <p><i>Policies of life insurance granted by the Director-General of the Post Office of India in accordance with rules for Postal Life Insurance issued under the authority of the Government of India.</i></p>	
<p>E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.</p> <p><i>General Exemption.</i></p>	One-quarter of the duty payable in respect of the original insurance, but not less than one anna or more than one rupee.
<p>Art. 14 (a), Sch. II.</p> <p>(a) Letter of cover or engagement to issue a policy of insurance :</p> <p>Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.</p>	
<p>Art. 50, Sch. I.</p> <p>48. POWER-OF-ATTORNEY [<i>as defined by s. 2 (21)</i>], not being a PROXY (No. 52)—</p>	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents	Eight annas.
(b) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882*	Eight annas.

* Act XV. of 1882.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
48. POWERS-OF-ATTORNEY—<i>contd.</i>	
(c) when authorizing one person or more to act in a single transaction other than <i>the case</i> mentioned in <i>clause (a)</i>	Former (b). One rupee.
(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally	Former (c). Five rupees.
(e) when authorizing more than five, but not more than ten, persons to act jointly and severally in more than one transaction or generally ...	Former (d). Ten rupees.
(f) <i>when given for consideration, and authorising the attorney to sell any immoveable property:</i>	<i>The same duty as a Conveyance (No. 23) for the amount of the consideration.</i>
(g) in any other case	One rupee for each person authorized. Former (e).
N. B.— <i>The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1877.*</i>	
<i>Explanation.</i> —For the purposes of this article more persons than one, when belonging to the same firm, shall be deemed to be one person.	
49. PROMISSORY NOTE [<i>as defined by section 2 (22)</i>]—	<i>The same duty as a Bill of Exchange (No. 13) according as it is payable on demand or payable otherwise than on demand, as the case may be.</i> New.
50. PROTEST OF BILL OR NOTE , that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note	"Protest," Art. 50 (heading 3), Sch. I. One rupee.

* Act III. of 1877.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
Art. 50 (4th heading), Sch. I.	51. PROTEST BY THE MASTER OF A SHIP , that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such
	<i>One rupee.</i>
	<i>See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).</i>
Art. 51, Sch. I.	52. PROXY empowering any person to vote at any one <i>election of the Members of a District or Local Board or of a body of Municipal Commissioners</i> , or at any one meeting of (a) Members of an <i>incorporated Company or other body corporate</i> whose stock or funds is or are divided into shares and transferable, (b) a <i>Local Authority</i> , or (c) Proprietors, Members, or Contributors to the funds of any Institution ...
	<i>One anna.</i>
Art. 52, Sch. I.	53. RECEIPT [<i>as defined by s. 2 (23)</i>] for any money or other property the amount or value of which exceeds twenty rupees
	<i>One anna.</i>
Art. 15, Sch. II.	<i>Exemptions.</i>
	Receipt—
	(a) endorsed on or contained in any instrument duly stamped, or exempted under the <i>proviso to s. 3 (instruments executed on behalf of the Government)</i> acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity, or other periodical payment thereby secured ; (b) for any payment of money without consideration ;

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>53. RECEIPT—<i>contd.</i></p> <p><i>Exemptions—contd.</i></p> <p>(c) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inam lands ;</p> <p>(d) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constables ;</p> <p>(e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity ;</p> <p>(f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity ;</p> <p>(g) given by a headman or lambardar for land-revenue or taxes collected by him ;</p> <p>(h) given for money or securities for money deposited in the hands of any banker, to be accounted for :</p> <p>Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for :</p>	

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
53. RECEIPT—<i>contd.</i>	
<i>Exemptions—concl'd.</i>	
Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any <i>incorporated Company or other body corporate or such proposed or intended Company or body, or in respect of a debenture being a marketable security.</i>	
Art. 53, Sch. I.	
54. RE-CONVEYANCE OF MORTGAGED PROPERTY—	
(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 :	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Re-conveyance.
(b) in any other case	Ten rupees.
Art. 54, Sch. I.	
55. RELEASE , that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000 :	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(b) in any other case	Five rupees.
Art. 55, Sch. I.	
56. RESPONDENTIA BOND , that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT. — <i>See SETTLEMENT (No. 58) ; TRUST (No. 64).</i>	

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
57. SECURITY BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money <i>or other property</i> received by virtue thereof, <i>or executed by a surety to secure the due performance of a contract—</i>	Art. 14, Sch. I.
(a) when the amount secured does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case	Five rupees.
<i>Exemptions.</i>	
<i>Bond or other instrument, when executed—</i>	Art. 8, Sch. II. Old cl. (a) omitted.
(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876,* section 99, for the due performance of their duties under that Act ;	
(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;	
(c) under No. 3-A of the rules made by the Governor of Bombay in Council under section 70 of the Bombay Irrigation Act, 1879;†	
(d) executed by persons taking advances under the Land Improvement Loans Act, 1883,‡ or the Agriculturists' Loans Act, 1884.§ or by their sureties, as security for the repayment of such advances ;	Art. 12 (a), Sch. II.
(e) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money <i>or other property</i> received by virtue thereof ;	Art. 12 (b), Sch. II.

* Ben. Act III. of 1876.

† Bom. Act V. of 1879.

‡ Act XIX. of 1883.

§ Act XII. of 1884.

SCHEDULE I.—continued.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
<p>Art. 57, Sch. I.</p> <p>58. SETTLEMENT—</p> <p>A.—INSTRUMENT OF (<i>including a deed of dower</i>).</p> <p style="text-align: center;"><i>Exemptions.</i></p> <p>(a) <i>Deed of Dower executed on the occasion of a marriage between Muhammadans.</i></p> <p>(b) <i>Hlodansa, that is to say, any settlement of immoveable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified, and on which a duty of Rs. 10 has been paid.</i></p> <p>B.—REVOCATION OF— </p> <p style="text-align: center;"><i>See also TRUST (No. 64.)</i></p>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such Settlement.</p> <p><i>Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.</i></p> <p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation, but not exceeding ten rupees.</p>
<p>S. 35, Act VI. of 1882.</p> <p>59. SHARE-WARRANTS to bearer issued under the Indian Companies Act, 1882.*</p> <p style="text-align: center;"><i>Exemption.</i></p> <p><i>Share-warrant when issued by a Company in pursuance of the Indian Companies Act, 1882,* section 30. to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of—</i></p>	<p><i>Three-quarters of the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.</i></p>

* Act VI. of 1882.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
59. SHARE-WARRANTS—<i>contd.</i>	
<i>Exemption—contd.</i>	
(a) <i>three-quarters per centum of the whole subscribed capital of the company, or</i>	
(b) <i>if any Company, which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—three-quarters per centum of the additional capital so issued.</i>	
SCRIP.— <i>See CERTIFICATE (No. 19).</i>	
60. SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel	Art. 58, Sch. I. One anna.
61. SURRENDER OF LEASE—	Art. 59, Sch. I.
(a) when the duty with which the lease is chargeable does not exceed five rupees.	The duty with which such lease is chargeable.
(b) in any other case	Five rupees.
<i>Exemption.</i>	
Surrender of lease, when such lease is exempted from duty.	Art. 16, Sch. II.
62. TRANSFER—	Art. 60, Sch. I.
(a) Of shares in an incorporated Company or other body corporate.	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(b) of debentures being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8.	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the Debenture.
(c) of any interest secured by a Bond, Mortgage-deed, or Policy of Insurance—	Form (b) of Art.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
62. TRANSFER—<i>contd.</i>	
(i) if the duty on such Bond, Mortgage-deed, or Policy does not exceed five rupees.	The duty with which such Bond, Mortgage-deed, or Policy of Insurance is chargeable.
(ii) In any other case	Five rupees.
Former (c) of Art. (d) of any property under the Administrator-General's Act, 1874,* section 31	Ten rupees.
Former (d) of Art. (e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (a) to (c) of this article.
<i>Exemptions.</i>	
Art. 17, Sch. II. Transfers by endorsement—	
(a) of a bill of exchange, cheque, or promissory note ;	
Old cl. (f) worked into (b). (b) of a bill of lading, <i>delivery order, warrant for goods, or other mercantile document of title to goods ;</i>	
(c) of a policy of insurance ;	
(d) of securities of the Government of India.	
<i>See also section 8.</i>	
Art. 60A, Sch. I. 63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the Transfer.
<i>Exemption.</i>	
<i>Transfer of any lease exempt from duty.</i>	
Art. 25, Sch. I. 64. TRUST—	
A.— DECLARATION OF— of or concerning any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument, but not exceeding fifteen rupees.

* Act II. of 1874.

SCHEDULE I.—*concluded.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.	
<p>64. TRUST—<i>contd.</i></p> <p>B.—REVOCATION OF—of or concerning any property <i>when made</i> by any instrument other than a WILL.</p> <p><i>See also</i> SETTLEMENT (<i>No. 58</i>).</p> <p>VALUATION.—<i>See</i> APPRAISEMENT (<i>No. 8</i>).</p> <p>VAKIL.—<i>See</i> ENTRY AS A VAKIL (<i>No. 30</i>).</p>	<p>The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument, but not exceeding ⁷/₁₀ ten rupees.</p>	<p>Art. 56, Sch. I.</p>
<p>65. WARRANT FOR GOODS that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse, or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be ...</p>	<p>Four annas.</p>	<p>Art. 61, Sch. I.</p>

SCHEDULE II.*

ENACTMENTS REPEALED.

(See section 79.)

No.	Year.	Short title.	Extent of repeal.
I.	1879	... <i>The Indian Stamp Act, 1879</i> ...	<i>The whole.</i>
VI.	1882	... <i>The Indian Companies Act, 1882</i>	<i>Section 35.</i>
IX.	1884	... <i>The Legal Practitioners Act, 1884.</i>	<i>Section 10.</i>
I.	1888	... <i>The Indian Stamp Act (1879) Amendment Act, 1888.</i>	<i>The whole.</i>
V.	"	... <i>The Inventions and Designs Act, 1888.</i>	<i>So much of the First Schedule as relates to the Indian Stamp Act, 1879 (I. of 1879).</i>
XVIII.	"	... <i>The Burma Financial Commissioner's Act, 1888.</i>	<i>So much of the Schedule as relates to the Indian Stamp Act, 1879 (I. of 1879).</i>
VI.	1889	... <i>The Probate and Administration Act, 1889.</i>	<i>Sub-sections (3) and (4) of section 18.</i>
XX.	1890	... <i>The North-Western Provinces and Oudh Act, 1890.</i>	<i>So much of section 38 as relates to the Indian Stamp Act, 1879 (I. of 1879).</i>
XII.	1891	... <i>The Repealing and Amending Act, 1891.</i>	<i>So much of Part I. of the First and Second Schedules as relates to the Indian Stamp Act, 1879 (I. of 1879).</i>
VI.	1894	... <i>The Indian Stamp Act (1879) Amendment Act, 1894.</i>	<i>The whole.</i>
XIII.	1897	... <i>The Indian Stamp Act (1879) Amendment Act, 1897.</i>	<i>The whole.</i>

* Newly inserted.

SPEECH ON THE INTRODUCTION OF THE STAMP BILL.

Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 and 56 Vict., cap. 14).

[The Council met at the Viceregal Lodge, Simla, on Friday, the 15th October 1897.]

PRESENT:

His Excellency the EARL OF ELGIN, Viceroy and Governor-General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *Presiding*.

His Honour SIR WILLIAM MACKWORTH YOUNG, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency SIR G. S. WHITE, G.C.I.E., G.C.B., V.C., Commander-in-Chief in India.

The Hon'ble SIR J. WESTLAND, K.C.S.I.

The Hon'ble M. D. CHALMERS.

The Hon'ble MAJOR-GENERAL SIR E. H. H. COLLEN, K.C.I.E., C.B.

The Hon'ble A. C. TREVOR, C.S.I.

The Hon'ble SIR H. T. PRINSEP, Kt.

The Hon'ble SIR G. H. P. EVANS, K.C.I.E.

STAMP BILL.

THE Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to consolidate and amend the law relating to Stamps. He said: "During the last forty years, there have been three general Stamp Acts—first that of 1862; then that of 1869, which consolidated and amended the Act of 1862; and thereafter the Act of 1879, which consolidated and amended the Act of 1869. The present Act is meant to be a consolidation and amendment of the last of these Acts, that of 1879, which was introduced and passed after elaborate consideration of the subject, and very largely upon the lines of the English Stamp Act. Our hon'ble and temporarily lost colleague, Sir John Woodburn, at the last meeting of the Council, told us that, in the course of time, weaknesses are discovered and brought to light in the case of every Act of every Legislature, and this is the excuse which I make to the Council bringing now before them for renewed consideration the Act which it is necessary to amend, namely, the existing Stamp Act. It is natural that defects should be found in an Act of the present description, which enters so largely into the business-transactions of every-day life. It is not intended to make any alterations in the main lines of the existing law applicable generally to stamps. Most of the alterations which it is proposed to make are alterations of a petty character, and there are only two or three which might possibly be considered to be of any importance.

"The main defects in the Act may be described as follows. First, there are cases in which the law, for want of clearness, has failed in its intention. The stamp law differs from most other revenue laws in this respect, that it is left very largely to a sort of automatic operation that is to say, it is applied by persons themselves to their own transactions, and the burden of its interpretation rests, not merely upon the lawyer, but upon the layman. It is all the more necessary, therefore, that, in its working and in its explanation, it should be as clear as possible, so that people,

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who desire to pay proper duty upon their documents, and who have no intention of evading the duty in any way, may thoroughly and clearly understand the obligations which rest upon them. There are also cases in which we find that the provisions of the law, as they stand, have been evaded, partly from apparent misunderstanding, and partly no doubt because a lawyer, when he is acting for his client, is bound to carry out the transaction entrusted to him in such fashion as to burden his client in the least possible measure with duty. There are some cases in which it is found in practice that the duty imposed by law upon a certain class of transactions has been evaded by carrying out the transaction in a manner in which the same result has been obtained by the payment of less duty. In these cases, it is proposed, by some of the provisions which are included in the amending Bill, to levy the amount of duty which the Act of 1879 intended to levy. There are again cases which, it has been found in the experience of the last eighteen years, have not been adequately provided for; and I say this both in the interests of the revenue and in the interests of the persons who are chargeable with duty. There are cases in which greater facilities may be given to the public than are afforded by the present law, and there are cases in which petty hardships are inflicted which the present law does not enable the local officers to meet.

"In two or three of these cases the defects have been remedied by previous amendments, there having been, since 1879, two or three amending Acts. But by far the larger number of the defects brought to notice from time to time have been merely examined, noted, and recorded with a view of their being brought before the Legislature in a general amending Bill. These cases were all gathered together and submitted for the consideration of Local Governments and the officers whom they desired to consult, in a circular which was issued in the beginning of 1895. We have received in reply to that circular a large number of suggestions and criticisms of the law as it at present stands. Some of the suggestions which have been made to us we do not see our way to adopt, but such of them as commend themselves to us are embodied in the Bill which it is now intended to lay before the Legislature.

"The main question which will interest the public in connection with the amendment of the Act is the question, what alterations are proposed in the duties. For the most part—I should say in all but very exceptional cases—we leave the duties as they at present stand. It is not our intention to ask the Legislature to pass a law in aid of the revenue; but, in going through the duties as they stand, and in collating the opinions regarding them, there are one or two points in which the duties require amendment. I shall, first of all, mention cases in which it is proposed to increase duties. The first of these is the large class of instruments upon which one anna duty is at present levied. The Act, as it at present stands, necessarily quotes documents by their English names—quotes, for example, a bill of exchange. A bill of exchange is a document which is established in a very well-known form by English Mercantile Law. In this country, very naturally, the English forms of these documents are not the same as those adopted by Native Merchants in their transactions; and questions have consequently arisen with reference to mercantile documents which have the same purpose in Indian commerce that bills of exchange have in English commerce, whether they are liable to duty as bills of exchange. Now, I may mention that, in the English Stamp Act, bills of exchange have got a specially wide definition. A bill of exchange, for the purposes of the Negotiable Instruments Act, is defined in the English law relating to negotiable instruments. But, in the English Stamp Act, it is prescribed that, for the purposes of that Act, a bill of exchange shall mean a very much larger class of documents than is included within the wider definition of the Negotiable Instruments Act. We have now taken that English definition, and we have brought it into our Indian Stamp Act. The result will be that we shall include, mostly under the one-anna rate of duty, a number of instruments which at present escape duty, because they are drawn in the native character, and are not called hundis, the native hundi being the only name that is expressly included in the term bill of exchange.

"The same course we follow with regard to the definition applying to promissory notes. We have introduced into our present Act a definition of promissory note taken from the English Stamp Act,

"We do not, except in one small particular, propose to alter the duty which is levied upon bills of exchange and cheques, cheques being only one of the varieties of bills of exchange. The intended alteration is that we do not propose to carry on the existing exemption in favour of bills of exchange and other such documents for an amount of less than twenty rupees. Receipts for less than twenty rupees are at present exempted from duty; and as it is an obligation by law to give a receipt in certain cases, we do not propose in any way to alter the taxation of receipts or to impose upon receipts not exceeding twenty rupees a tax which they do not at present bear. But, in the case of bills of exchange and cheques, we remove the twenty-rupees exemption, and in this respect we copy the English Act. I may mention that there is a history affecting bills of exchange for less than twenty rupees, and that their exemption from duty appears to have arisen by mistake. I quote from a very learned book written by the Hon'ble Mr. Chalmers in a former state of existence in which, dealing with bills of exchange, he says:—

"By Statute George III., cap. 88, negotiable bills for less than twenty shillings were made void in England, and any person who issued or negotiated them was made liable to a penalty not exceeding twenty pounds."

"This law has since then been set aside, but it appears to have been the origin of the practice of exempting bills of exchange and cheques under a certain amount, the fact being that in England these were not exempted from taxation, but they were *ipso facto* illegal, and there was penalty attached to the drawing of them.

"In the case of promissory notes, there is another alteration which has been made, and in which we have also copied the English Law. As the law at present stands, a promissory note bears the same duty as a bill of exchange payable on demand. Demand means a very different thing in the case of a bill of exchange from what it means in the case of a promissory note. When a bill of exchange is payable on demand, it is intended, unless it is of the variety known as kites, to start at once upon its journey; it passes through various hands and towards discharge. Now, when a person makes a promissory note payable on demand, nothing would surprise him more than the presentation of the note being immediately made to him. It is not really meant to be payable on demand, although it is expressed to be so. A promissory note is therefore treated as a continuing security in England, and it is provided that promissory notes shall bear the duty which is payable on a bill of exchange drawn otherwise than on demand. In this respect, therefore, we have copied the English Act, and made a change which increases the duty payable upon these documents.

"Another change in the direction of increase is in the case of what are called in England equitable mortgages, and which, in the Indian Stamp law, as it at present stands, are called by a rather lengthy name—instruments evidencing an agreement to secure the re-payment of a loan made upon the deposit of title-deeds or other valuable security. These equitable mortgages, according to English law, pay two-fifths of the duty payable upon a bond. In India the duty is extremely small; it only comes to one-eighth of the amount payable on bonds. An equitable mortgage is a transaction which frequently covers considerable amounts of money, and it is a cheap way of carrying out ordinary borrowings from banks and the like. We propose to raise the duty payable in these cases to about one-fifth of the amount required in the case of formal borrowing by bond. This rate is, in proportion to the duty upon bonds, half of what is leviable by the English law, and seems to us a moderate demand in respect of the transactions involved.

"There are only two other cases in which we have increased the duty, or levy a duty which is not at present provided for: The first is the case of a deed of adoption. A deed of adoption is defined in the Indian Act as one conferring authority to adopt, and is chargeable with a duty of ten rupees. There is no duty payable upon instruments recording adoptions. We propose to include these in the definition of deed of adoption, and thus to extend the ten-rupee duty to cases of adoption. An adoption very frequently conveys to the person adopted very valuable rights indeed, and it is a document which mostly passes between persons possessing

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ample estate. There seems to us no reason why these deeds should be exempted from stamp-duty.

"The other case to which I wish to refer is that of a perpetual lease. It is provided in the existing law that a perpetual lease is chargeable only as a conveyance for a consideration equal to the amount of one year's rent. One year's rent is a very small standard of duty of what may be really a conveyance by sale of a very valuable property. Under these circumstances we propose to regulate the duty, not upon a consideration equal to one year's rent, but upon a consideration which is equal to ten years' rent.

"It will be observed also under the head of power-of-attorney that we have provided for one class of evasion which is not unfrequently practised under the law as it stands, namely, the facility given for effecting mortgages and the like by what is in form only a power-of-attorney. A power-of-attorney, when it is drawn for a purpose like this, will pay a duty equal to the duty payable in respect of the conveyance of the property for the assignment for which the power-of-attorney is drawn up.

"There are also one or two cases, such as petty partnerships and petty sales by order of court, in which we have reduced the duty at present assessed.

"So far as regards increases of duty which we propose to introduce into the present law, it will be seen that they are not very many. We have further taken the opportunity of making special provision in the Act with reference to debentures. There is at present no special provision with reference to debentures. They are dealt with under the general conditions of bonds. But, since the law of 1879 was passed, debentures have come very largely into use, and the practice of limited companies issuing debentures has been extended very widely. We have therefore made special provision relating to debentures. We do not alter the tax upon them; they pay the same duty as is payable on bonds under the existing law; but we have incorporated in the existing law one kind of exemption which has been given by notification, namely, we have provided that, in cases of debentures issued in pursuance of a mortgage-deed, they shall be exempted from further duty; that is, the duty shall be payable once upon the mortgage-deed, and not again upon separate debentures issued in conformity with it. This provision is intended for the benefit of limited companies, and does not apply to private persons or proprietors of estates issuing debentures as is now sometimes done. Such debenture-issuers will be responsible, not only for the payment of the duty on the mortgage, but also for the payment of the additional duty which is required under the existing law for debentures issued under the mortgage.

"We have also, for the facility of business connected with debentures, provided in the Act itself for the renewal of debentures without the payment of any extra duty. At present, when a company wants to renew debentures, it has to pay the same duty upon them as upon the originally-issued debentures. We have provided that, when debentures are renewed, they shall not be chargeable with any new duty, and we allow also for certain alterations in the terms of the debentures being effected without new payment of duty.

"I do not propose in any way to go over all the petty alterations in the provisions of the Bill; they will be dealt with in due course by the Select Committee. There are only one or two matters to which I wish to call attention :—

"The first is with reference to a new section which was passed as Act VI. of 1894 to give facilities to local authorities for issuing debentures upon payment of composition duty. We have, by the addition of a word in that section, included the exemption of transfers as well as the exemption of issues of debentures; but we have also made provision, by adding a sub-section, for levying a penalty upon a local authority which issues debentures without first of all paying duty. This penalty is taken word for word from the similar provision in the English Act.

"The next alteration is the provision of a method of cancellation of adhesive stamps. People are bound to cancel stamps, but no direction is given as to the method of cancellation. We provided in the law one method of cancellation; that method is not made absolutely obligatory, but it is desirable to give people one

clear method of complying with the prescription of the law as to effecting cancellation. In section 20 we have provided a rate of exchange for the conversion of amounts expressed in foreign currencies for the purposes of valuation under the Act. The existing law lays down a rate for the conversion of sterling and one or two other currencies into rupees. That provision, I need not say, has become altogether obsolete; and now, instead of fixing a particular rate for the conversion, we have given power to the Governor-General in Council, by the issue of a notification, to prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of British India.

"Another section which is very far from clear is that which is now section 24, and relates to the sale of property which is transferred to any person subject to encumbrance. It is necessary to provide that the consideration for such sale should be reckoned not only upon the money paid, but also upon the money due for discharge of the encumbrance. We have explained this by an explanation and illustrations attached to the section.

"Then in section 26 we have made special provision for the case of leases of mines. This section provides for the case of levy of duty *ad valorem* when the amount on which to reckon the duty is unascertainable. The provision of the present law is that a person may select his own rate of duty, but may not upon the document recover more than that duty covers. In the case of mines of which the rent is a share of the produce, it is utterly impossible to tell beforehand what the amount of rent may be. We have therefore provided that any person who chooses to assess the share of the produce at 20,000 rupees a year may recover any amount in excess of that estimate without regarding the limit covered by the duty paid.

"In section 29 we have provided that, if a person, besides giving an original receipt, is called upon to give a copy of it, he will not be responsible for the payment of the duty on that copy, but the person who demands it.

"Chapter IV. of the Bill deals with the admissibility of improperly stamped documents in evidence. We have received from some judicial officers objections to the whole principle of this chapter. They have given us many valuable suggestions and criticisms upon the working of the Stamp law, but we are unable to accept their views in respect to the authority of Civil Courts to admit documents in evidence which are not properly stamped. The whole of this subject was carefully gone into and explained at the time that the Act of 1879 was before the Council; and I refer hon'ble members and the officers in question to those discussions as giving ample reasons why we should maintain the law on the subject, which obliges Civil Courts to refer these matters to the revenue-officers, and not to dispose of them themselves. In this chapter we have made some provision for the benefit of the public, namely, in giving revenue-officers the power to interpose of their own motion in favour of a person subjected to a penalty.

"We have added a section (48) which gives the necessary power to the Collector to recover all sums required to be paid under the Act, there being at present no provision of this kind.

"In the case of Chapter V., which deals with spoiled stamps, we have made the whole subject much more clear than it stands in the present law. There is one change which has been made in this Chapter to which it is necessary to draw attention, because I think that the present provisions of the Act are based upon a misunderstanding. The provisions of the English Act, from which the Indian law is taken, are that, if a document is found to be void in law from the beginning, the parties who executed it can claim refund of the duty which they have paid upon it, provided no legal proceeding has been commenced in which the document would have been given in evidence. As adopted in the Act of 1879, this section was worded so as to apply to documents which have been found by a Court of law to be void. This the reference to the English Act will show to be a mistake. If a document is found by a Court to be void, it must have been produced in evidence before that Court, and must have been made use of by the party producing it. There is no reason why duty should in such a case be refunded. We have therefore amended the existing Indian law in this respect so as to bring it into conformity with the English law.

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"In section 51 we have inserted a provision which will give certain facilities to companies which, in the course of their business, keep a considerable number of stamped forms for use. Cases have occasionally arisen in which these forms have ceased to be useful for the purposes for which they were prepared. There are no provisions in the existing law by which a refund of the duty paid on such forms can be claimed; although claims made in such cases have been considered by Government, and refunds made by executive order. We have thought it better to provide greater facilities in this respect, and have empowered the Chief Revenue Authority to give refunds in these cases.

"In section 64, the general penalty section, an alteration has been made by including as an offence under the Act the doing of an act with intent to defraud. If the English Act be referred to, it will be found that the general penalty clause is much wider than the section proposed.

"In the chapter relating to supplemental provisions (Chapter VIII.), there is one new clause, which we have taken from the English Act, and which subjects every public officer, and therefore every Judge of a Court, who is in charge of records of any description, to give access to the revenue authorities for the purpose of making any inquiry to determine whether any document is insufficiently stamped. In transferring that section from the English to the Indian Act we have omitted the penalty clause, because we consider that the Judges and other public officers in this country are likely to conform to their legal obligations without being threatened with a penalty of ten pounds in case of default.

"There is one alteration we have made in a small matter. We have provided that one anna adhesive stamps may be sold without any license being necessary.

"In the schedule to the Act we have made several changes in form which we believe will conduce very largely to public convenience:—

"First, we have improved the alphabetical order. For instance, in the case of a divorce or a gift, people would naturally look under the letter D or the letter G, as the case may be. If reference be made to the existing schedule, they will not be found under these letters, but under the letter I, namely, under the head of Instruments. There are other similar cases.

"We have also removed exemptions from their position in a separate schedule of exemptions and placed them in the schedule of duties under the articles to which they refer.

"Another change is that we have made the ascertainment of duty more direct and more easy. For example, the three tables of duty under the heads of bills of exchange, bond, and conveyance are at present drawn up in a very curtailed form. It is impossible, when considerable amounts are involved, without the aid of paper and pencil, to make out from the different tables the duty payable on a particular instrument. By extending the table we have made it easy for a person by a reference to the schedule to ascertain directly what the particular duty is. We have altered the schedule in another respect by improving the references; for example, if you want to find the duty on an administration bond, you are referred to security bond; and if you turn to security bond, you are sent to find the proper duty under the head of bond. There are several cases of double reference of this kind, and we have in these cases made the reference direct.

"Besides the exemptions which are mentioned in the Act itself, there are a large number which have been effected by notification. These refer chiefly to documents which arise in the course of the business of public departments. If we bring these into the new Act, we will crowd the schedule largely with matters of no general public interest. We therefore propose to continue the present practice and to provide for all these exemptions by notifications, and not by bringing them into the Act itself. There are a few documents of this character which are exempted under the provisions of the Act as it stands, but we have cut out these exemptions with the intention of including them in the list of similar instruments which have been from time to time exempted by notifications. This list it is intended to print and make public as soon as possible, so that any person who has any interest in

these documents will see that the removal of them from the schedule of exemptions is not to be interpreted as an intention to levy any duty upon them.

"I have thought it necessary to make these remarks, for the length of which I hope to be excused; but the Bill is one which contains a very large number of amendments, and affects a very large number of common transactions, so that, it is necessary to enter into explanations in some detail. I have now explained all but the most unimportant matters in which it is proposed to amend the Act of 1879, and I make the motion which stands in my name."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India* in English, and in the local official Gazettes in English and in such other languages as the Local Governments may think fit. He said that he might mention that in the publications of the Bill it was intended to reprint it in the form in which it was compiled for working purposes in the Legislative Department, namely, that new and altered matter would be shown in italics, and in addition to that would be shown on the margin of each clause the authority, in the Indian or English Acts, from which the clause was taken.

The motion was put and agreed to.

REPORT OF THE SELECT COMMITTEE.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Stamps was referred, have considered the Bill and the papers submitted to us, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto:—

2. *Clause 3 (3), "Bill of Exchange payable on demand."*—We have omitted the concluding words of clause (b) of this definition as likely to give rise to difficulty in India, and we have provided expressly that a letter of credit is for stamp-purposes to be treated as a bill payable on demand.

(10) *Conveyance.*—We have altered this definition so as to make it include all conveyances *inter vivos* which are not specifically provided for in Schedule I., and then to meet the difficulty in I. L. R., 7 Cal. 21, where it was held that the instrument in question was neither a "conveyance," nor a "settlement," nor an "instrument of partition," but an "arrangement" for the transfer of property.

We have added a definition of "impressed stamp" so as to make it clear that the term includes both a stamp impressed by the Collector and also a stamp or embossed stamp-paper.

(15) *Instrument of partition.*—We have extended this definition so as to include an award by an arbitrator directing a partition.

(22) *Promissory note.*—We have re-drafted this definition in order to make its meaning clearer.

3. *Clause 3.*—We have added to the general exemption in this clause an exemption of sales, mortgages, and other dispositions of registered ships. We consider that the Indian law in this respect should conform to the law of the United Kingdom as stated in section 721 of the Merchant Shipping Act, 1894 (57 & 58 Vict., cap. 60), and in the second general exemption at the end of the first schedule of the Stamp Act, 1891 (54 & 55 Vict., cap. 39).

4. *Clause 12.*—We have added some words to sub-section (3) to make it clear that the mode there indicated for cancelling an adhesive stamp is directory only, and not intended to exclude other effective modes of cancellation.

5. *Clause 24.*—We have added a proviso to the *explanation* making a concession in a case where the mortgagee is himself the purchaser, that is to say, where he already has an interest in the property, and is only purchasing the remaining interest of the mortgagor.

6. *Clause 26.*—We have added a proviso to cover the case where, by accident, an instrument is insufficiently stamped originally, and the proper duty is subsequently paid under sections 41 and 42.

7. *Clause 29.*—We have omitted the reference to article No. 54 (re-conveyance of mortgaged property) from clause (a), and provided for the payment of duty on re-conveyances, as in the case of conveyances, by the grantee. We have also omitted clause (b) relating to copies of receipts, as we do not propose to levy stamp-duty on such instruments.

We have omitted the proviso and *illustration*, as a concession of duty in respect to partitions by the amended schedule.

8. *Clause 35.*—We have provided for the case of contracts which are to be gathered from correspondence when there is no formal instrument to be stamped, by enacting that it is sufficient if any one of the letters forming part of the correspondence bears the proper stamp.

We have also altered sub-section (b) so as to cover all cases in which a receipt is sought to be put in evidence against the person who ought to have stamped it. Lastly, we have added words to sub-section (d) to provide for a possible case of hardship. A Collector acting under section 32 or any other similar provision might certify an amount as being the proper duty which the Court considered less than the proper duty. We think that in such a case the instrument should be admissible in evidence, as the party tendering it is not to blame.

9. *Clause 37.*—We have altered the drafting of this clause to make it clear that the right to have an instrument stamped with a stamp of improper description duly stamped is dependent on rules made by the Governor-General in Council.

10. *Clause 39.*—As the law stands, the Collector cannot charge in any case a less penalty than five rupees. When the stamp is very small, *e.g.*, one or two annas, ten times the value of the stamp might be less than five rupees, and we think that in such cases it will be sufficient to recover ten times the amount of the stamp.

11. *Clause 40.*—As the law at present stands, the Collector may either impose a penalty of five rupees or a penalty of ten times the amount of the proper duty, provided that such amount does not fall short of five rupees. We think that the Collector should have a discretion to take ten times the amount of the proper duty, even though that may not amount to five rupees, *e.g.*, if the amount of duty were two annas, he might be allowed to impose a penalty of Re. 1-4.

We have added sub-section (3) as it was represented to us that inconvenience has been caused by requiring the Collector to return the instrument to the person who originally tendered it instead of to the impounding officer.

12. *Clause 44.*—We have added further words to sub-section (3). If a case comes into Court, and the Court does not think fit to include the amount of the duty or penalty in the costs, we think that no other proceedings to recover it should be taken.

13. *Clause 45.*—We have omitted the new sub-section (1), as it has been represented to us that the power conferred by it is likely to be abused. It would give rise to continual applications for postponement of civil suits, and the Controlling Authority would be flooded with fruitless applications for remission.

14. *Clause 49.*—We have inserted a new sub-section (7), because a doubt has arisen whether the existing sub-section (6) covers the case of a second instrument being executed solely because the stamp on the original instrument was of insufficient value.

15. *Clause 54.*—Vendors of stamps buy stamps under discount. In the case of a refund, they are of course only entitled to receive the amount actually paid, and not the full value of the stamps.

16. *Clause 70.*—We have provided that, where an offence is compounded, the agreed composition may be recovered as if it were a penalty under section 48.

17. *Clause 75.*—We have inserted a limit of five hundred rupees fine as the maximum penalty to be imposed for breach of any rule.

18. *Schedule I.—No. 1, Acknowledgment.*—We have reverted to the old duty of one anna for all acknowledgments, and have added words to make it clear that the provision relates only to mere acknowledgments, and does not include acknowledgments containing in addition any promise or agreement.

No. 6. Agreement to mortgage.—We have amended this article, and reverted to the old law by confining it to instruments of equitable mortgage, and excluding agreements to execute a future mortgage.

No. 14. Award.—We have excluded awards directing partitions, as they are specially provided for as partitions.

No. 24. Copy or Extract.—We have omitted the proposed duty on original or attested copies of receipts.

No. 27. Debentures.—We have added words to the *explanation* to show that interest coupons attached to debentures are free from tax, and that the amount payable under them is not to be taken into consideration in taxing the debenture.

No. 45. Partition.—We have inserted provisions reducing the duty in the case of partitions. The Bill, as originally drawn, imposed, in the case of a partition, a duty calculated on the value of the whole property partitioned, but gave the Revenue Authority or Civil Court power to remit the duty upon such portion as remained undivided. We have altered the duty so as to make it leviable only on the value of the share or shares divided off; and we have further based the levy of the duty on the assumption that at whichever partner's instance a partition takes place, it is the smaller shares that are separated from the larger, and not the larger that is separated from the smaller. It seems to us that the operation is the same whether it is the larger or the smaller shareholder, who is the initiator; and the taxation on the transaction should not be different in the two cases.

The following illustrations will show how the alteration in the law proposed by us will operate, if adopted:—

Four equal shareholders, each having a four-anna share, agree to partition.
The duty is levied on 12 annas of the value of the whole property.

Of three shareholders, having respectively shares of one-half, one-third, and one-sixth, two apply to have their shares partitioned off. The duty is levied on half the value of the property.

One shareholder, having two-thirds of a property, obtains separation from the remainder who hold jointly one-third, and who desire to continue to hold their share jointly. The duty is levied on one-third of the value of the property.

No. 47. Policy of Insurance.—We have provided a reduced duty for insurance against accident or sickness which is at present chargeable on the same footing as life insurance.

No. 48. Power-of-Attorney.—We have limited clause (6) of this article to the case of powers authorizing sales of immoveable property.

No. 49. Promissory Note.—We have restored the old law under which promissory notes payable on demand can be stamped with a one-anna stamp.

Nos. 58 and 64.—We have reduced the duty in the case of the reservation of small settlements, also in the case of small trusts and reservations of trust.

19. The publication ordered by the Council has been made.

20. We think that the measure has been so altered as to require re-publication, and we recommend that it be re-published in the *Gazette of India*.

J. WESTLAND.
M. D. CHALMERS.
JOY GOBIND LAW.
H. E. M. JAMES.
F. A. NICHOLSON.
ALLAN ARTHUR.

The 19th March 1898.

PROCEEDINGS IN COUNCIL.

[*Gazette of India, Jan. 21, 1899.*]

Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the Provisions of the Indian Councils Acts, 1861 and 1892 (24 and 25 Vict., Cap. 67, and 55 & 56 Vict., Cap. 14).

[The Council met at Government House, Calcutta, on Friday, the 20th January 1899.]

PRESENT:

His Excellency BARON CURZON OF KEDLESTON, G.M.S.I., G.M.I.E., Viceroy and Governor-General of India, *presiding*.

His Honour SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General SIR W. S. A. LOCKHART, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble SIR J. WESTLAND, K.C.S.I.

The Hon'ble MR. M. D. CHALMERS, C.S.I.

The Hon'ble Major-General SIR E. H. H. COLLEN, K.C.I.E., C.B.

The Hon'ble SIR A. C. TREVOR, K.C.S.I.

The Hon'ble MR. C. M. RIVAZ, C.S.I.

The Hon'ble M. R. Ry. PANAPPAKKAM
AKANDA CHARLU, VIDIA VINODHA
AVARGAL, RAI BAHADUR, C.I.E.

The Hon'ble MR. J. J. D. LATOUCHE, C.S.I.

The Hon'ble RAI BAHADUR PANDIT SURAJ
KAUL, C.I.E.

The Hon'ble GANGADHAR RAO MADHAV
CHITNAVIS, C.I.E.

The Hon'ble MR. ALLAN ARTHUR.

The Hon'ble MR. P. M. MEHTA, C.I.E.

The Hon'ble NAWAB MUMTAZ-UD-DAULA
MUHAMMAD FAIYAZ ALI KHAN.

The Hon'ble MR. J. K. SPENCE, C.S.I.

The Hon'ble MR. G. TOYNBEE.

The Hon'ble MR. D. M. SKEATON, C.S.I.

The Hon'ble MR. J. D. REES, C.I.E.

INDIAN STAMP BILL.

THE HON'BLE SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps be taken into consideration. He said: "My Lord, Hon'ble Members will perhaps remember that, on the 21st of March last, I presented the Report of the Select

Committee upon the Indian Stamp Bill, a consolidation of the law as it at present stands. I explained at that time the alterations which had been made by the Select Committee in the Bill as it was originally introduced, and it would perhaps be convenient to Hon'ble Members if I read the last paragraph of the statement I then made, as that paragraph will show the history of the Bill to the point at which we now take it up. This is what I then said :—

“ There have been considerable modifications in these points of detail, which have been made in it as reported by the Select Committee. The Select Committee considered that in a matter so far-reaching, one in which people are so very largely concerned, it is not desirable that the law should be passed without giving some opportunity for further consideration. They have, therefore, in their report, recommended that the measure has been so altered as to require republication, and they recommend that it should be republished in the *Gazette of India*. The date from which the Act will come into force, as shown in the Bill reported by the Select Committee, is the 1st of July next. I am afraid that it will not be possible to bring it into force by that date, because, even if the measure be passed at Simla, we shall have to put off the date of its coming into force for a sufficient time to enable the Local Governments to publish it and translate it into the various vernacular languages ; but I think the Bill, as it has been reported by the Select Committee, may be considered, to a very large extent, a non-contentious measure, and it may possibly be open to the Council, even during the Simla session, to consider it and to pass it. That, however, is a matter we shall hereafter consider when we see what remarks are made with reference to it as now reported ; but, inasmuch as we have met all the objections which were raised to it as first introduced, I think it may be possible, even though it is a commercial measure, to proceed with its consideration during the Simla session.’

“ The measure was not taken up in the Simla session, and it now comes before the Council again at the point at which the Council left it on the 21st of March last. I therefore beg to move the motion that stands in my name. I have some amendments to propose, and I shall deal with these after the motion that the Report be taken into consideration is passed.”

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND said : “ I have some amendments to propose in the Bill as it at present stands. We have received only two communications regarding it, both of them coming from Madras. These communications refer to certain points of doubt which have arisen in the interpretation of the Bill. I think some of them are rather strained, but, as we desire to make the Bill perfectly clear on the points noted, the several amendments I propose are set before the Council with that object. They are all of one tendency, namely, to make it clear that in certain cases, where a doubt has been expressed as to whether an instrument of a certain character comes within a higher or a lower duty, it really comes within the lower duty. It will probably be convenient to the Council if I go through these amendments all together instead of explaining them one by one before they are taken up.

“ The first is an amendment for altering the date at which the Bill comes into operation—from the 1st of July 1898 to the 1st of July 1899. The Bill itself provides that the Local Governments shall make translations of it for the convenience of the various Provinces and of their inhabitants. It therefore requires a certain time to elapse between the time the Bill passes and the time it comes into operation. We think it will be convenient and easy to have all these measures carried out before the 1st of July next, and we therefore take the 1st of July 1899 as the date upon which the Bill will come into operation.

“ The second amendment relates to the use of the word ‘engrossed’ as applied to stamps. In the Bill as reported on it was stated that an impressed stamp ‘includes stamps engrossed on stamped paper.’ The word ‘engrossed’ has a technical meaning among lawyers, and represents a peculiar method of writing that does not apply to stamps. Stamps are generally engraved, and occasionally embossed. It is proposed, therefore, to substitute for the words, ‘stamps

engrossed on stamped paper,' the words, 'stamps embossed or engrossed on stamped paper.'

"The third amendment has reference to the definition of the word 'settlement.' There are two scales of duty which are provided for by the Act: One is a scale which refers to transfers, such as gifts or conveyances, and may be described as a one per cent. scale; the other is a scale which represents such documents as bonds and security bonds, and that is a half per cent. scale. The article in the schedule of stamps provides that to settlements shall be applied this lower scale of half per cent. A settlement is a kind of transfer, and any document which does not come within the definition of 'settlement,' being a conveyance or a gift of some kind, will necessarily have applied to it the one per cent. and not the half per cent. scale. So that, if our definition of the word 'settlement' is so set out that any particular document is excluded thereby from it, it will necessarily have to be stamped with the one per cent. duty instead of the half per cent. Now, in the Madras Presidency, it has been ruled that the use of the word 'distribution' in the definition of 'settlement' indicates that a settlement must necessarily be in favour of more than one person. It has consequently been ruled in that Presidency that, if a settlement is made in favour of one person, it is not a settlement within the meaning of the Act, and must bear a one per cent. duty instead of the half per cent. which is levied for a settlement in the schedule. We propose to alter the definition of the word 'settlement' so as to prevent the exclusion from it of what is not an infrequent document—a settlement in favour of a single person. We have added, therefore, to the original definition of the word 'settlement,' as it is taken from the old Act, the following words: 'or for the purpose of providing for some person dependent on him.' A 'person' of course includes also persons, and the consequence is that a settlement is made to include not only a document which has for its object the distribution of the property of the settlor, but of providing, whether by distribution or otherwise, for some person dependent on him.

"The fourth amendment refers to the stamp which is required on a certificate of sale given by a Civil or Revenue Court or Collector or other Revenue-officer. A single property is at such a sale sometimes put up in separate lots. The consequence is that the words inserted by the Select Committee for the purpose of defining the stamp-duty required, namely, the words 'in respect of each property sold,' are not quite clear. What the Select Committee intended was that they should regard each property separately put up as a subject for duty, and that the duty required should be levied in respect of each property put up as a separate lot and sold. The insertion of these words will make the definition intended by the Select Committee clearer.

"The fifth amendment refers to the duty required upon a gift. At present 'gift' comes under the one per cent. scale of duty, the same duty as is required in respect of a conveyance, but, in order to prevent so high a duty being levied on a certain class of transactions which is liable to very frequent transfer, such, for example, as shares in a public company, or debentures issued by a public company, the words were inserted, a gift 'not being a settlement (which comes under the half per cent. duty) or a will (upon which no duty at all is required) or a transfer of shares' (upon which a smaller duty is required), but, if reference be made to the article referring to the duty which is levied upon transfers, it will be seen that there are other things besides transfers of shares which are entitled to this smaller rate of duty. We therefore, in order to prevent the application of the duty required upon a gift to the case of those other transactions, cut out the words, 'of shares,' and merely say the higher duty is required upon an instrument of gift not being a settlement or gift or transfer, without limiting this last expression to transfer of shares.

"The sixth amendment practically refers to the definition which we have given of an instrument of partition. It is stated that an instrument of partition includes an award or an order of a Court directing a partition. The object of this inclusion in the term 'instrument of partition on an award' was that it was found that, as a matter of fact, co-sharers, proceeding to a partition of their property, instead of drawing up a partition-deed, and having it duly stamped, agreed to an award of parti-

tion being made, and the award of partition was stamped with the small stamp required for an award, and not with that required for an instrument of partition. But it is very clear that, if persons have an award of partition made, and afterwards have an instrument of partition drawn up to carry out this award, they ought not to be made to pay duty twice over. There are similar provisions in the case of leases. A lease is defined to include an agreement to lease; but it is carefully provided that, if the persons who execute an agreement to lease, and put upon it the stamp-duty which is required for a lease, afterwards carry out the formal documents which complete that lease, they shall not pay the duty twice over, but shall pay upon the second instrument a mere duty of eight annas. We have applied this same kind of proviso to the case in which an award or decree of partition having been first properly stamped, afterwards an instrument of partition is drawn up in order to carry out the partition.

"The seventh amendment refers to the definition of powers-of-attorney. A specially small duty is levied upon powers-of-attorney which are executed for the sole purpose of effecting registration. The Registration Act provides that persons who proceed to the registering officer for the purpose of registration may, under the cognizance of the registering officer, effect certain other operations at the same time. They may, for example, pass the consideration-money, and have the fact attested by the registering officer. There is also a provision in the Registration Act which provides for the delivery of the documents to the registering person or to any other person to whom it has to be delivered in the presence of the registering officer. Now, if a person is authorized by a power-of-attorney to carry out the whole of these operations, it is a little doubtful whether the instrument which is so drawn up comes within the definition of a power-of-attorney 'executed for the sole purpose of procuring registration of one or more documents in relation to a single transaction.' We therefore propose, in order to remove these doubts, to indicate that the document bearing this smaller stamp may cover the whole of the transaction which takes place before the registering officer by saying that the word 'registration' shall include every operation incidental to registration under the Indian Registration Act.

"The eighth amendment is a little more than a typographical correction. A reference was made to article 13 (b), whereas, as a matter of fact, the reference, ought to be made to the whole of the article 13, and not only to a portion of it.

"The ninth amendment refers to the duty upon a proxy. A proxy is, of course, a power-of-attorney, and, unless we had a particular provision relating to it, it would have to be stamped as a power-of-attorney; but in order to provide for documents so frequently used for what may be called a mere incidental purpose, we have prescribed certain cases where a proxy may be used instead of a power-of-attorney, and on which is paid a stamp-duty of one anna instead of eight annas or a rupee, which would be required if it was called a power-of-attorney. One of these cases is a proxy empowering any person to vote at any one meeting of a local authority, such as, for example, a district board or a municipal board. Now, by an order which has been notified under the Stamp Act, it has been declared that this one-anna duty is sufficient in the case of a proxy which is given, not for empowering any person to vote at a meeting of a local board, but empowering him to vote at an election of a local board, carried out under the law of the Local Government concerned. These elections do not involve meetings at all, or they may not do so; and if the article of the present Stamp Act, which in that respect is the same as the provision of the Bill, stood alone, a proxy given for that purpose would require an eight-anna stamp. We have, therefore, modified article 52 so as to show that a proxy bearing a one-anna stamp is sufficient, not only for empowering any person to vote at a meeting, but also empowering any person to vote at an election. I may mention that the law, as it at present stands, applies this duty only to the case of a proxy given by a female. There is no particular reason why it should be limited to females, and there is no reason why we should levy a higher duty upon proxies given by males than those given by females.

"As to the tenth amendment, the remarks which I made with reference to an instrument of partition apply. A proviso is to be added in exactly the same sense, and which runs as follows:—

Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

"Its object is to prevent a double levy of duty upon what is practically a single transaction.

"The eleventh amendment is complementary to the fifth amendment, and it explains that the smaller duty levied upon a transfer of a certain description is equally applicable, whether the transfer is made with or without consideration. If it were not for this explanation, it might be considered that a transfer without consideration was a gift, and had to bear the full one per cent. duty.

"The twelfth amendment refers to the stamp upon a transfer of a lease. The provision as it stands at present is that no duty whatever is required in the case of the transfer of a lease which is exempt from duty. I am advised by the Legislative Department that the meaning of these words would be that the document exempted was a transfer of a lease which is, by the provisions of this law itself, exempt from duty. We wish to extend this a bit, especially as there is a very large class of leases which are exempted from duty by executive notification, but are not exempted by the law itself, namely, agricultural leases. We, therefore, omit the words, 'which is,' and the result of that omission is that the exemption from duty extends, not only to transfers of leases which are by law exempt from duty, but also to transfers of leases which may, by executive notification, be exempted from duty.

"These, my Lord, are all the amendments that I have to move, and if Your Excellency will permit me, I propose not to make a formal motion with reference to each of them.

"I may also mention that it is intended that the Bill should be brought up to be passed at the next meeting of the Council."

The following amendments were then put separately to the Council by His Excellency THE PRESIDENT, and agreed to:—

(1) That in clause 1, for the figures "1898," in both places, the figures "1899" be substituted.

(2) That in clause 2, sub-clause (13) (b), for the word "engrossed," the words, "embossed or engraved," be substituted.

(3) That to clause 2, sub-clause (24) (b), the words, "for the purpose of providing for some person dependent on him, or," be added.

(4) That in Article No. 18 of Schedule I., after the words, "each property," the words, "put up as a separate lot and," be inserted.

(5) That in Article No. 33 of Schedule I., for the words "SETTLEMENT OR WILL OR TRANSFER of shares," the following be substituted, namely:—

"SETTLEMENT (No. 58) or WILL or TRANSFER (No. 62)."

(6) That in Article No. 45 of Schedule I., after Proviso (b), the following be added, namely:—

"(c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas."

(7) That in Article No. 48 of Schedule I., after the words, "one rupee for each person authorized," the following be added, namely:—

"N. B.—The term 'registration' includes every operation incidental to registration under the Indian Registration Act, 1877."

(8) That in Article No. 49 of Schedule I., for the parenthesis, "[No. 13 (b)]," the parenthesis, "(No. 13)," be substituted.

(9) That in Article No. 52 of Schedule I., after the word "vote," the words, "at any one election of the members of a District or Local Board, or of a body of Municipal Commissioners, or," be inserted.

(10) That in Article No. 58 of Schedule I., after the words, "set forth in such Settlement," the following be added, namely:—

"Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas."

(11) That in Article No. 62 of Schedule I., after the word "TRANSFER," the parenthesis, "(whether with or without consideration)," be inserted.

(12) That in Article No. 63 of Schedule I., in the *Exemption*, the words, "which is," be omitted.

At the next meeting of the Council, the Bill was formally passed into law.

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RULINGS UNDER THE STAMP LAW.

RULINGS UNDER THE REGULATIONS.

COL. 1.

BEN. REGS. XII. OF 1826 AND X. OF 1829.

Under the old Stamp Law (Reg. XII. of 1826, which was not registered by the Supreme Court), agreements not on stamped paper executed in Calcutta *bona fide* by parties residing or carrying on business therein, when there was no intention of pleading such documents in the Mofussil Courts, were held to be good and binding.—GOURY CHURN MOOKERJEE v. JOGENDRONATH MOOKERJEE, W. R., 1864, 289.

Held that, inasmuch as Reg. X. of 1829 was not recognized by the Supreme Court, life-policies of insurance issued before 1860 did not require a stamp.—RAJNARAIN BOSE v. UNIVERSAL LIFE ASSURANCE COMPANY, I. L. R., 7 Cal. 594; 10 C. L. R. 561.

Mirasi ryoti pottahs were not required either by the old (Act X. of 1829, s. 31) or new Stamp Law (Act X. of 1862) to be written on stamped paper.—MOHREOODDEN AHMED v. PRANNATH ROY CHOWDHRY, 3 W. R. (Act X.) 142.

BOM. REG. XVIII. OF 1827.

Reg. XVIII. of 1827 did not require a will to be stamped during the testator's lifetime.—WEBBE v. LESTER, 2 Bom. H. C. R. 55 (2nd Ed., 52).

An objection to the validity of a document under Reg. XVIII. of 1827, as distinguished from its inadmissibility in evidence, or from a prohibition to Courts of Justice or public officers to act upon it, was an objection on the merits under Act VIII. of 1859. Where two documents were executed in the Island of Bombay, respectively, under date the 29th August 1851 and 4th August 1852, and did not appear to have been originally expressly intended to operate within any of the zillahs subordinate to the presidency of Bombay held that they did not come within the scope of Reg. XVIII. of 1827. That Regulation, being an enactment imposing stamp-duties upon the subject, must be strictly construed; and, although the High Court believed that those documents were actually intended to operate, so far as the particular property in question in the suit was concerned, in the zillah of Tanna, the High Court declined to hold "expressly" to mean the same as "actually," as nothing appeared on the face of

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the documents to show where the property mentioned in them was situated.—GIRDHAR NAGJISHET v. GANPAT MOROBA, 11 Bom. H. C. R. 129.

A signed account showing a balance up to date, and containing a promise to pay interest upon the consolidated balance, cannot be made use of in evidence to support a claim to interest on that balance, unless it be stamped; but it may be used as a *asmaduskut* or simple admission of a balance due, although not stamped.—DHONDU JAGANNATH v. NARAYAN RAMCHANDRA, 1 Bom. H. C. R. 47.

Where an agreement between a mortgagor and mortgagee contained a stipulation that the mortgagor should, at the time of redemption, make good the losses arising to the mortgagee from the default of tenants which it had been agreed the mortgagee might put in, in case the mortgagor made default in payment of the rent agreed upon for the term of the mortgage, such an agreement was not a lease, or the counterpart of a lease, within the meaning of Reg. XVIII. of 1827, s. 10, cl. 3, but was a contract of indemnity against losses to be incurred after the determination of the lease, which, not having any operation so long as the lease was in existence, was, therefore, not exempt from stamp-duty under that Regulation. Where an appellant has not tendered the stamp-duty and penalty on a document which the Courts below have held to be insufficiently stamped, the High Court will not allow him to do so in special appeal.—RAM KRISHNA GOPAL v. VITHU SHIVAJI, 10 Bom. H. C. R. 441.

On documents insufficiently stamped under Reg. XVIII. of 1827 the question did not properly arise, under s. 13 of that Regulation, whether the intention of the parties, in not sufficiently stamping them, was to defraud Government of its revenue. That question was rendered important, first, by s. 13 of Act XXXVI. of 1860, and, subsequently, in a more explicit manner, by s. 15 of Act X. of 1862.—KASTUR BHABANI v. APPA, I. L. R., 5 Bom. 621.

A party has a right to have stamped, on payment of the prescribed penalty, an instrument executed while Reg. XVIII. of 1827 was in force, and it should not be rejected

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on the ground of intention by the party to evade the stamp-duty.—*ANTAJI NILKANTH v. JANARDAN VASUDEV*, 10 Bom. H. C. R. 358.

A bond or other writing, stamped after the death of the grantor, is valid against his heirs. The personal representatives, or other persons claiming as heirs and kindred of a deceased grantor, stood, with regard to ss. 13 and 14 of Reg. XVIII. of 1827, in the same position as the deceased grantor would, and were not third parties within the meaning of s. 14. The previous decisions of the late Sudder Court to the contrary overruled.—*RAGHIA v. DHARMA JHATU*, 1 Bom. H. C. R. 52.

A donee of the grantor was a third party within the meaning of Reg. XVIII. of 1827, s. 14, cl. 1, and therefore, as against him, a deed of sale of the property given in gift was only valid from the date on which it was stamped. Precedents on this point questioned, but followed.—*JAGANNATH VITHAI v. APAJI VISHNU*, 5 Bom. H. C. R. (A. C.) 217.

The purchaser, at a court-sale, of the right, title, and interest of the judgment-debtor is a third party within the meaning of s. 14, Reg. XVIII. of 1827, cl. 1, and therefore, as against him, a mortgage-deed passed by the latter to a mortgagee is valid—not from the date of its execution, but from that on which it was stamped. *Jagannath Vithal v. Apaji Vishnu* (5 Bom. H. C. R., A. C., 217) followed.—*NARAYAN DESHPANDE v. RANGUBAI*, 1 L. R., 5 Bom. 127.

Rulings under Stamp Act XXXVI. of 1860.

A security-bond executed by a third party to the abkari renter is not exempt from stamp-duty.—*RAMASVAMI CHETTI v. PAPPA REDDI*, 1 Mad. H. C. R. 190.

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No larger sum could be recovered under s. 14, Act XXXVI. of 1860, upon a bond executed on an optional stamp than that optional stamp covers, and no amount of penalty can make up the deficiency in the stamp.—*KERAMUT ALI v. ABDOL WAHAB*, 17 W. R. 131.

Sch. A and s. 14.

A promissory note, containing an agreement by the maker that, in case of any dispute or difference arising concerning the payment of the note or the subject-matter thereof, the same shall and may be sued in the Supreme Court, and "to the jurisdiction of which I hereby waive, and agree to waive, all pleas," properly stamped as a

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promissory note, did not require an additional stamp as an agreement under Act XXXVI. of 1860, Sch. A and s. 14.—*RAKHALDAS SINGHEE v. ROY CHUNDER DUTT*, 1 Ind. Jur., O. S., 124.

Sch. A, cl. 4.

An instrument to the following effect:—"On the 14th December 1861, we, A and Co., bind ourselves to pay with interest to you, B and C, Rs. 566-10, being the balance of dealings held with your firm, and the amount received this day from you in cash on account of stamp"—held to be neither a bond nor a hundi, but to be in the nature of a promissory note, and to come within the description in cl. 4, Sch. A of Act XXXVI. of 1860.—*HUTUMAN SAHIB v. HUSAIN SAHIB*, 1 Mad. H. C. R. 152.

Sch. A, cl. 20.

An agreement on a Rs. 24 stamp-paper between A, who had obtained from Government the abkari farm of a certain talook, and B, stipulating that, in consideration of Rs. 2,000 advanced by B for payment of deposit, the whole management should reside in B; that the parties should each have a half share, and be respectively entitled and liable to profit and loss in respect of his share; that they should account with one another for the sums laid out by B, and should settle annually the accounts of profit and loss upon the half share, held to be a partnership agreement, and to be sufficiently stamped under Act XXXVI. of 1860, cl. 20, Sch. A. In determining the stamp to be affixed to a document, the state of things at its execution is alone to be regarded.—*CHINNAIYA NATTAN v. MUTTUSVAMI PILLAI*, 1 Mad. H. C. R. 226.

Rulings under Stamp Act (X. of 1862), sec 3.

By s. 6 of Act I. of 1868, an offence committed under s. 3 of Act X. of 1862, whilst that enactment was in force, is still an offence, and may be tried under that enactment.—*ANONYMOUS*, 7 Mad. H. C. R. (Ap.) 9.

The mere engrossing of a deed on unstamped paper was not an offence under s. 3 of Act X. of 1862, nor did the signing such deed as a witness constitute any such offence.—*REG. v. JETHA MOTHI*; *REG. v. VIRJI KUVARJI*, 2 Bom. H. C. R. 135 (2nd Ed., 129); *REG. v. JOTI BIN SATU*, 1 Bom. H. C. R. 37.

The words in s. 3 of Act X. of 1862, "unless in any case in which a higher penalty is imposed" and "not exceeding," apply both to the penalty of Rs. 100, and one higher than ten times the value of the omitted stamp. Attesting witnesses and persons who draft documents, and note the

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fact with their signatures at the foot, do not come within the words, "make, execute, sign, or be a party to," used in the section, and are therefore not punishable under it.—ANONYMOUS, 3 Mad. H. C. R., (Ap.) 27.

SECS. 3 and 52.

A prosecution under s. 3, Act X. of 1862, not having been authorized by the Collector of the stamp-revenue for the district or any other officer specially authorized by the Government in that behalf, was held to be, under s. 52 of that Act, irregular.—*QUEEN v. ADJODHYA PERSHAD*, 2 N.-W. P. H. C. R. 188.

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Documents not bearing proper stamps under Act X. of 1862 are not admissible in evidence, even to show the terms of the deed as against the party producing the same.—*OOMRAO SINGH v. METHAB KOONWER*, 3 Agra 103a.

A bond stamped subsequently to the institution of a suit is valid under the provisions of the Civil Procedure Code and of the Stamp Acts of 1860 and 1862, provided it be properly stamped when produced at the first hearing of the suit, and when the Court is asked to receive it in evidence.—*ATMARAM GULABRAI v. AMIRCHAND RUPCHAND*, 3 Bom. H. C. R. (A. C.) 92.

In determining the stamp required for any particular instrument, regard must be had to the real nature of the instrument, and not to the title which may have been given to it by the parties, if the contents of the instrument show that the title is a misnomer.—*PENDSE v. MALSE*, 3 Bom. H. C. R. (A. C.) 94.

Where a document contained two distinct contracts requiring separate stamps, but the whole was impressed with one insufficient stamp, it was held that this stamp might be taken into account in making up the aggregate of the stamps required.—*BALAJI MAHADEB v. KRISHNAJI BIN CHIMNAJI*, 6 Bom. H. C. R. (A. C.) 95.

With the exception of the depositions of the witnesses and the documentary evidence and copies of the final sentences or orders passed by Criminal Courts, which parties desirous of appealing from such sentence were required by s. 416 of the Code of Criminal Procedure, 1861, to file with their petitions of appeal, when the party who was desirous of appealing was in confinement under the operation of the sentence or order at the time that he applied for a copy of the same, it was held that copies of any part of the record

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of a criminal trial could only be furnished to applicants on stamp-paper.—*ANONYMOUS*, 4 Mad. H. C. R. (Ap.) 58.

The transfer of an under-tenure, endorsed upon the back of the tenant's pottah, is not admissible in evidence, unless it be stamped as though it were a separate deed.—*TETAI ABOM v. GAGAI GURA CHAWA*, 3 B. L. R. (Ap.) 30; *S. C., PITAYE AHUNG v. GIRGHER KOER AJOOAH*, 11 W. R. 365.

Where the defendant executed in favour of the plaintiff what purported to be a deed of absolute sale, but an ikrar, executed contemporaneously, reserved the right of redemption to the defendant, and the plaintiff alleged he had surrendered it by returning the ikrar, *held* that, as the original deed was, on the face of it, an absolute sale, and as the effect of it was merely controlled by the ikrar, the return of the latter extinguished the equity of redemption. A separate document requiring a separate stamp was unnecessary.—*RAJ COOMAR SINGH v. RAM SUHAYE ROY*, 11 W. R. 151.

Sec. 15, cl. 6.

It is not the duty of a Civil Court to receive and submit to the Board of Revenue an application from a pauper plaintiff for remission or mitigation of penalty under the Stamp Law. The pauper should himself make timely application under cl. 6, s. 15, Act X. of 1862.—*GOLAM GUFFOOR v. EKRAM HOSSEIN CHOWDHRY*, 10 W. R. 358.

Sec. 17.

Held that an appeal lies to the High Court from the decision of a Judge in a Division Court rejecting a document tendered in evidence under s. 17, cl. 7, of Act X. of 1862, on the ground that there had been an intention to evade the payment of stamp-duty. The point upon which the decision of the Court is to be final under s. 17 of the Stamp Act is as to what is the proper amount of stamp-duty which the document ought to bear, and not as to whether the Court ought or ought not to receive the document in evidence.—*ROYAL BANK OF INDIA v. HORMASJI KHARSEDJI*, 3 Bom. H. C. R. (O. C.) 153.

S. 17 of Act X. of 1862 only applied to the reception of documents under s. 15 which had been insufficiently stamped; not to documents on which there was no stamp. Such documents should not be received at all.—*LALJI SINGH v. AKRAM SER*, 3 B. L. R. (A. C.) 235; 12 W. R. 47.

A bond, executed between a plaintiff who sued upon it and the defendants, contained the following clause: "And, inasmuch as we (the defendants) are urgently in want of money, and are unable to procure a stamp

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at the moment, we have executed the bond on plain paper. Should it be necessary for you (plaintiff) to bring a suit against us, whatever penalty you may have to pay shall be made good by us, with interest." The Small Cause Court Judge before whom the case was tried, considered the above clause in the bond to be evidence of an intention between the parties "to avoid the Stamp Laws, and refused to receive evidence to the contrary. He also refused to admit the bond in evidence. *Held*, on reference to the High Court, that the clause in question did not amount to an agreement to evade the Stamp Laws. The Judge might have inferred from it that it was the intention of the parties to evade the Stamp Laws, but in that case he should have heard evidence to the contrary.—*SASHI BHUSHUN BANERJEE v. TARACHAND KER*, 3 B. L. R. (A. C.) 329; 11 W. R. 553.

A Court to which a document is tendered in evidence under this section ought not to reject it, unless it clearly appears that there was an intention to evade the payment of stamp-duty.—*ROYAL BANK OF INDIA v. HORMASJI KHARSEDJI*, 3 Bom. H. C. R. (O. C.) 153.

Whether permission to pay the stamp-duty and penalty can be given in the case of a lost instrument?—*ARUNACHELLUM CHETTY v. OLAGAPPAH CHETTY*, 4 Mad. H. C. R. 312.

The plaintiff brought a suit against three defendants under the following circumstances: The third defendant was the tenant of a village under the second defendant, the first defendant being the agent and manager of the second defendant. The third defendant owed the second defendant a sum of money on account of rent, and drew a hundi on the plaintiff for Rs. 1,000 to be paid to the first defendant or order, and containing these words: "For which amount I shall deliver over to you grain in that village and its hamlets, and for which the Dewan (first defendant) will issue an order to the above effect." The hundi was upon a one-anna stamp. Plaintiff on receipt of this hundi drew upon the back of it another hundi upon his mother-in-law in the following terms: "On demand please pay to Mahomed Rahamatulla Shaib, Dewan of Venkatagiri (first defendant), or to his order, the withinmentioned amount for grain to be supplied me by Mr. Ward (third defendant) on the order of the said Mahomed Rahamatulla Shaib, the Dewan of Venkatagiri." This was signed by the plaintiff, and beneath his signature was that of the first defendant. The amount mentioned in the hundi was paid to the first defendant; the second hundi was unstamped. The plaintiff's

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case was, that the first defendant entered upon a binding engagement with him to deliver, or permit the delivery of, grain of the value of Rs. 1,000, and that he failed to fulfil his engagement. The Civil Judge decreed for the plaintiff. On appeal *held* by the High Court, reversing the decision of the Civil Court, that the second hundi was not admissible in evidence, not being stamped, and that there was no evidence of such an agreement as that relied on by the plaintiff.—*MAHOMED RAHAMATULLA v. WARD*, 5 Mad. H. C. R. 391.

In a suit brought in a Small Cause Court to recover money, being a debt secured by a hissab entered on a leaf of a khatta book, where the defendant objected to the admission of the leaf as evidence, because it did not bear a proper stamp, *held* that, under ss. 15 and 17, Act X. of 1862, it was competent to the Judge to find, on the facts before him, whether the absence of the stamp was owing to an intention to evade payment of the stamp-duty, and that no question arose for reference to the High Court.—*RAJ CHUNDER SHAHA v. GOBIND CHUNDER KOOLAL*, 13 W. R. 102.

The plaintiff sued his elder brother for a share in certain family-property. The defendant raised a question of family-custom, and relied on a certain deed of release which, he said, the plaintiff had given him; but the existence of which the plaintiff denied. That document was not stamped, though, on the face of it, it stated that it was to be stamped. No objection was taken on that score to the document before the first and the lower Appellate Courts, who considered that the document was a genuine document executed by the plaintiff. After its production, it had an insufficient stamp of two annas put upon it. The High Court, on appeal, left the deed as part of the evidence in the case, but qualified its effect and the extent of its operation by making it a deed of release—releasing so much of that which the plaintiff might otherwise claim as would be covered by the insufficient stamp of two annas. *Held* that the High Court might either have refused to admit the document for want of a stamp, or—which would be more correct—it might have required it to be properly stamped, and the penalty paid into Court; but the course taken was entirely without precedent, without principle, and without authority.—*MANTAPPA NADGOWDA v. BASWANTRAO NADGOWDA*, 15 W. R. (P. C.) 33; 14 Moore's I. A. 24.

Sec. 22.

A promissory note is sufficiently stamped if the stamp covers the principal sum named in the note without reference to the inter-

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est.—GOMEZ v. YOUNG, 2 B. L. R. (O. C.) 165; 12 W. R. (O. C.) 1.

A B, by an instrument in writing, dated 6th August, promised to pay C D, "on demand," Rs. 4,310-13-3. In the margin of the instrument was written "due 30th August," and annexed to A B's signature was the following memo: "The sum of Rs. 4,310-12-6 only, forty-five days from the 5th of August." Held that the instrument was properly stamped as a promissory note payable on demand, and ought to have been admitted in evidence. *Per Peacock, C J.*—A promissory note payable on demand ought to be stamped as such, notwithstanding there may be a collateral agreement between the parties that the holder will not present it for a given time, or, if paid on demand, that the maker shall be entitled to discount. —CHANDRAKANT MOOKERJEE v. KARTIKCHARAN CHAILE, 5 B. L. R. 103; 14 W. R. (O. C.) 38.

Where the wording of a promissory note bearing a one-anna stamp appears to be ambiguous as to whether it is payable on demand, the Court will take the evidence of the parties as to the intention, and will then decide whether it is properly stamped. Under such circumstances the Court will take evidence of usage.—BANK OF HINDUSTAN, CHINA, AND JAPAN v. SEDGWICK, 1 Ind. Jur., N. S., 107.

Sec. 26.

On the day fixed for the hearing of a suit in a Court of Small Causes, the plaintiff's vakeel appeared and stated, on behalf of his client, that the defendant had satisfied him in respect of the matter of the suit, which he prayed might be dismissed. The defendant did not appear. Held that the Judge was right in dismissing the suit, but that he should have recorded an order under the first provision in s. 98 of Act VIII. of 1859. Held, also, that, in such a case, when the plaintiff applies for a return of stamp-duty, he must strictly bring himself within the subsequent part of the same section as modified by s. 26 of Act X. of 1862.—ANONYMOUS CASE, 1 Mad. H. C. R. 127.

The rule allowing refund of fees for suits (s. 98 of Act VIII. of 1859, as modified by s. 26, Act X. of 1862) is not applicable to appeals which may be compromised.—IN THE MATTER OF ZEBUNNISA BIBEE, 12 W. R. 376.

Held that, for the purpose of refund of half stamp-duty under s. 26 of Act X. of 1862, the hearing of a suit in a Small Cause Court commenced when proof of the service of the summons was taken on the day appointed for the hearing; and where proof of the service of the summons had been

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previously taken, it must be considered as taken at the commencement of the proceedings on the day appointed for hearing.—AMIRCHAND JAMNADAS v. MAGGAN AMTHU 4 Bom. H. C. R. (A. C.) 176.

Sec. 27.

Where a written contract liable to an optional stamp is put in evidence by the defendants, the plaintiffs cannot recover a larger amount under it than (if stated) the optional stamp upon the instrument would have been sufficient to cover. In a suit for the recovery of money due under a written contract, the defendants admitted that a sum of Rs. 6,328-4-0 was due to the plaintiffs, subject to certain deductions which they claimed to be entitled to set off against the plaintiffs' claim. The defendants put in evidence the written contract, the stamp upon which was only sufficient to cover the sum of Rs. 5,000. Held that, notwithstanding the admission of the defendants, the plaintiffs could only recover Rs. 5,000 in the suit.—KISTNASAMY PILLAY v. MUNICIPAL COMMISSIONERS FOR THE TOWN OF MADRAS, 4 Mad. H. C. R. 120.

Sec. 32.

Under s. 32, Act X. of 1862, an appeal relating to the valuation of a claim can be entertained by the High Court.—BASOO MAD FUROSH v. HURER PANDEY, 11 W. R. 479.

Sec. 50, cl. 2.

An application was made to a Collector under s. 50, cl. 2, Act X. of 1862, to replace a damaged stamp by a new one. As it appeared that the stamp had been tampered with for fraudulent purposes, the Collector made over the parties to the Magistrate for trial. Held that, the document not having been given in evidence in any proceeding in Court, the Collector was not bound to proceed under ss. 169, 171, of the Criminal Procedure Code.—QUEEN v. GOUR MOHAN SEN, 3 B. L. R. (A. Cr.) 6; 11 W. R. (Cr.) 48.

Sch. A, cl. 1.

An instrument in the form of a promissory note for grain should be stamped, under art. 1 of Sch. A of Act X. of 1862, with a stamp of the value of one rupee —LACHIRAM JAYASANGJI v. RAMJI BIN SHIVAJI, 6 Bom. H. C. R. (A. C.) 107.

Sch. A, cl. 3.

In a suit for payment of rent for use and occupation of land, where the basis of plaintiff's claim was for a kubooleut, the agreement produced as evidence of the contract, not being the deed of contract itself, was held to be not liable to be stamped

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under art. 3, Sch. A, Act X. of 1862.—*CHOONKEE MUNDUR v. CHUNDRE LALL DASS*, 14 W. R. 334. Affirming on review, S. C., 14 W. R. 178.

Sch. A, cl. 4.

In a suit for breach of contract to cultivate and deliver indigo, for recovery of the amount specified in the contract, *held* the stamp-duty depended on the amount of consideration for the undertaking.—*DOYLE v. MUNDAREE MUNDUL*, 5 W. R. (S. C. C. Ref.) 10.

Sch. A, cls. 4 and 15.

An agreement to supply cotton in consideration of a sum of money received should be stamped under art. 4, and not under art. 15, Sch. A, Act X. of 1862.—*SAMSUDDIN SULTAN v. RAMJI BHIKA*, 5 Bom. H. C. R. (A. C.) 151.

Sch. A, cl. 10.

A promissory note, attested by a witness, does not require to be stamped as a bond under Act X. of 1862, Sch. A, cl. 10. The words in that clause, "not being a bond instrument, or writing bearing the attestation of one or more witnesses," referred only to the preceding words, "other order or obligation for the payment of money." Also the words, "bearing the attestation of one or more witnesses," apply only to the words "instrument or writing," and not to the word "bond."—*GLADSTONE v. SADOO CHURN DUTT*, 2 Ind. Jur., N. S., 203.

In a suit brought by a joint-stock company in liquidation against a former director of the company for Rs. 27,30,000 on a promissory note, dated the 1st of March, and purporting to be paid on demand, but with the words in pencil, "due 4th June," put on it, the same day it was signed, in accordance with an understanding between the defendant and the other directors that they would not press him for payment before the latter date, and signed by the defendant some days after the day it bore date, *held* that a one anna stamp was not sufficient under Sch. A, cl. 10, of Act X. of 1862.—*EASTERN FINANCIAL ASSOCIATION v. PESTANJI CURSETJI*, 3 Bom. H. C. R. (O. C.) 9.

A written direction given by a master to a servant for the payment of money belonging to the former in the hands of the latter was held to be not an order for the payment of money within the scope of the terms used in cl. 10, Sch. A, Act X. of 1862, as amended by Act XXVI. of 1867.—*POTBULWANT RAO v. FUTTEHOODREEN*, 1 N.-W. P. H. C. R. (Ed. 1873) 143.

Sch. A, cl. 12.

Security-bonds for costs of appeal to the Privy Council come within art. 12, Sch. A,

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Act X. of 1862, and ought to be executed on a stamp as therein specified.—*SOONJHAREE KOONWUR v. RAMESSUR PANDEY*, 5 W. R. (Mis.) 47.

In a suit upon a bond for Rs. 40 with interest, the defendant filed a solehnama admitting that the amount due from him was Rs. 25, and agreeing to pay that sum by instalments. *Held* that the solehnama was not a petition within the meaning of art. 10, Act XXVI. of 1867, but an agreement within the meaning of Sch. A of Act X. of 1862, and was liable to a stamp-duty of two annas as for an instalment-bond.—*MANICK CHUNDER ROY v. LALLMON SHEIKH; PUNCHANUN SIRCAR v. GUNESH MUNDUL*, 8 W. R. 214.

Sch. A, cl. 15.

An agreement to supply cotton in consideration of a sum of money received should be stamped under art. 4, and not under art. 15, Sch. A, Act X. of 1862.—*SAMSUDDIN SULTAN v. RAMJI BHIKA*, 5 Bom. H. C. R. (A. C.) 151.

Sch. A, cl. 18.

Where the parties to an agreement added to the stipulations which it contained a provision whereby a sum of money was made payable by way of fine or penalty in the event of the non-performance, at the appointed time, of the work contracted to be done, such a provision was held to be in the nature of an obligation for the payment of money, and for the due execution of work within the meaning of art. 18 of Sch. A of the Stamp Act, X. of 1862, and required an optional stamp.—*COLLINS v. DEWAN SINGH* 21 N.-W. P. H. C. R. 465.

Sch. A, cl. 42.

Where a written instrument purported to create the relation of landlord and tenant for five years, the plaintiff's (lessor's) tenure being that of a mirasidar, that is, an hereditary tenancy under Government, determinable on default in payment of the proportion of the Mothee Faisal assessment payable for the land, *held* that the written instrument was a lease, and was not liable to be stamped, by virtue of the exemption of art. 42, Sch. A of Act X. of 1862.—*SAMINATHAIYAN v. SAMINATHAIYAN*, 4 Mad. H. C. R. 153.

Sch. A, cl. 43.

A sanad, which authorized a gomashta to collect rents, and to sue for them, requires to be stamped. Such a sanad required a four-rupee stamp under art. 43, Sch. A of Act X. of 1862.—*RAGHU NANDAN THAKUR v. RAMCHARAN KAPALI*, 1 B. L. R. (F. B.) 55; 10 W. R. (F. B.) 39.

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J M executed in favour of P an instrument authorizing P to recover, by suit or otherwise, from Messrs. W and N, a sum of Rs. 22,500 (or thereabouts), which contained this clause: "From whatever sum P may recover from W and N, he is to pay himself the sum of Rs. 8,640 which is due to himself, and also the expenses he may incur in making recovery, and he is to hand over the surplus to me." *Held* that the above instrument operated as a power-of-attorney, and not as an assignment, and was properly stamped under Act X. of 1862, Sch. A, art. 43, with a stamp of Rs. 4.—*PESTANJI MANCHARJI WADIA v. MATCHETT*, 7 Bom. H. C. R. (A. C.) 10.

Sch. B, cl. 11.

A suit for the declaration of title to a fractional share in a zemindari paying revenue to Government is not a suit "for lands forming one entire mehal or a specific portion thereof with a defined jumma:" such share, being "an interest in land," should be valid according to the provisions of note e, cl. 11, Sch. B, Act X. of 1862.—*RAJ CHUNDER ROY v. CHUNDER CHURN NAIK*, 8 W. R. 437.

The rule of Circular No. 31, dated 3rd October 1864, that the time allowed for obtaining a copy of judgment or decree shall not begin to count till the whole of the requisite pieces of stamp-paper are put in, was held to extend also to plain paper filed under the general rule at end of Sch. B, Act X. of 1862, when the copy cannot be comprised within the stamp-paper put in.—*CHUMUN CHOWDHRY v. ALI AZIM*, 9 W. R. 138.

A suit to resume lands as lakhiraj fell, in respect of stamp-duty, under cl. d, s. 11, Sch. B. of Act X. of 1862. The term "revenue" in cl. d must be read as meaning revenue or rent, whether to Government or to a zemindar.—*GOPEE MOHUN MOJOOMDAR v. MACKINTOSH*, 9 W. R. 395.

RULINGS UNDER STAMP ACT (XXVI. OF 1867).

Petitions of appeal might be filed on several stamps sufficient to make up the full amount required by law, even though the petition was written on one paper.—*TARINEE CHURN NYABA CHUSPUTTY v. TARANATH GOHO*, 12 W. R. 449; *DAWD ALI v. NADIR HOSSEIN*, 16 W. R. 153.

When a stamp of the full value is available, parties ought to use as small a number of stamps as they can.—*KHAJOOROONISSA v. ROHIMOONISSA*, 16 W. R. 152.

There is no illegality in the reception of plaint engrossed on insufficient stamp-paper, if the full amount of the stamp-duty has

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been paid at the time.—*GOBIND KUMAR CHOWDHRY v. HARGOPAL NAG*, 3 B. L. R. (Ap.) 72; 11 W. R. 537.

Where, owing to an irregularity, a petition of appeal was returned before the Stamp Act, XXVI. of 1867, came into force, and the appeal was not filed until after that Act came into force, *held* that the appeal must be filed on a stamp of the amount prescribed by the new law.—*ARADHUN DEY v. GOLAM HOSSEIN MALOOM*, 7 W. R. 461. [See *Fagan v. Chunder Kant Banerjee*, 7 W. R. 452. In the Matter of the Petition of *Sreenath Roy Chowdhry*, 7 W. R. 462.]

Act XXVI. of 1867 required that copies of the decree and of the order for execution should be stamped; the certificate as to any sum remaining due under a decree required no stamp.—*VENKATA SUBIA, & SIVARAMAPPA*, 4 Mad. H. C. R. 331.

The exemption of the Government of India, dated the 19th September 1870, cannot be extended to copies of the statement of evidence and grounds of conviction. Persons desirous of obtaining copies of such documents for the purpose of appeal must furnish stamped paper on which the copies are to be written.—*ANONYMOUS*, 6 Mad. H. C. R. (Ap.) 12.

Sch. B, cl. 6, art. 10.

Applications to the High Court for certified copies of the decree and judgment might be engrossed on a stamp of one-anna, under cl. 6, art. 10, Sch. B of Act XXVI. of 1867.—*IN THE MATTER OF THE PETITION OF TURIF BISWAS*, 7 W. R. 455.

After instituting a suit on a bond for Rs. 32 with interest, the plaintiff filed a razinama stating satisfaction of his claim, and withdrawing the suit. *Held* the razinama was rather of the nature of a petition than of an agreement.—*PUNCHANUN SIRCAR v. GUNESH MUNDUL*; *MANICK CHUNDER ROY v. LALLMON SHEIKH*, 8 W. R. 214.

A document in the shape of a petition to a Court setting forth an arrangement come to between the parties in a suit may be received in evidence in support of a fresh suit founded upon the agreement recited in such petition, although only stamped as a petition, it not appearing that the agreement recited was made in writing.—*RAMDAL v. DHOORBY JHAUNNAN LAL*, 3 N.-W. P. H. C. R. 14.

Sch. B, cl. 11.

Petitions of special appeal to the High Court at Bombay, on its appellate side, had to be stamped according to the scale contained in cl. 11 of Sch. B. of Act XXVI. of 1867.—*Ex-parte DESAI KALYANRAI HAKUMATRAI*, 4 Bom. H. C. R. (A. C.) 145.

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Though a notice of a cross-appeal may be lodged with the Registrar of the High Court previously, the objection itself had, under s. 348, Act VIII. of 1859, to be taken at the hearing of the appeal, and to bear the stamp required by s. 6, Act XXVI. of 1867.—*LULLET SINGH v. ALI REZA*, 8 W. R. 322; *RASHOMONEE DOSSEE v. CHOWDHRY JUNMOJOY MULLICK*, 9 W. R. 356; *ABDOOL GUNNEE v. GOUR MONEE DEBIA*, 9 W. R. 375.

When the appeal of an appelliant was against the whole of the decision of the lower Court, and upon the full value of the original suit, no additional stamp-duty was required in respect of the respondents' objection under s. 348, Act VIII. of 1859.—*ANUND MOHUN CHATTERJEE v. SUTTO RAM MOZOOMDAR*, 8 W. R. 124.

Note *c* to art. 11, Sch. B, Act XXVI. of 1867, contained no reservation as to the stamp-duty to be levied on a petition of objection under s. 348, Act VIII. of 1859, filed by a pauper respondent.—*RASHOMONEE DASSEE v. CHOWDHRY JUNMOJOY MULLICK*, 9 W. R. 356.

The object of the note to art. 11, Sch. B of Act XXVI. of 1867, was to prevent appeals only where the question merely related to the amount of stamp to be impressed upon the plaint.—*COLLECTOR OF SYLHET v. KALI KUMAR DUTT*, 7 B. L. R. (F. B.) 633; 16 W. R. (F. B.) 10. *Contra*, *MADHUSUDAN CHUCKERBUTTY v. RYMANI DAS*, 7 B. L. R. 664 note; 13 W. R. 415.

A had been dispossessed of certain land in execution of a decree, which B had obtained in a suit against C under s. 15, Act XIV. of 1859. A applied, under s. 230, Act VIII. of 1859, to recover the land. *Held* no stamp was necessary on A's application.—*BRAHMA MAYI DEBI v. BARKAT SIRDAR*, 4 B. L. R. (F. B.) 94.

An application under s. 25, Act X. of 1859, for the assistance of the Collector in ejecting a ryot, was not a suit; and therefore the Revenue Courts could receive such petitions engrossed on a stamp-paper of the value of 8 annas.—*PYARI MOHAN MOOKERJEE v. KINA BEWAH*, 2 B. L. R. (A. C.) 226; S. C., *PEARY MOHUN MOOKERJEE v. KINA BEWAH*, 11 W. R. 90.

Held that the description of a document delivered to the Court under s. 40 of the Code of Civil Procedure, 1859, was neither a petition nor an application liable to duty within the meaning of the Stamp Act.—*CHOTALAL AMRITLAL v. BOMBAY, BARODA, AND CENTRAL INDIA RAILWAY*, 5 Bom. H. C. R. (A. C.) 101.

A complaint preferred by a Munsif under s. 168 of the Criminal Procedure Code, 1861,

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need not, though it did not bear the seal of the Munsif's Court, be on stamped paper.—*REG. v. SAJJAN VALAD VITHU*, 5 Bom. H. C. R. (Cr.) 104.

RULINGS UNDER STAMP ACT (XVIII. OF 1869).

By s. 6 of Act I. of 1868, an offence committed under s. 3 of Act X. of 1862, whilst that enactment was in force, is still an offence, and may be tried under that enactment.—*ANONYMOUS*, 7 Mad. H. C. R. (Ap.) 9.

The Civil Court is authorized, under Act XVIII. of 1869, to receive the proper amount of stamp which should have been affixed on a plaintiff's pottah under the law in force when it was executed.—*MAHOMED RIJAH v. COLLECTOR OF CHITTAGONG*, 6 B. L. R. (Ap.) 117; 15 W. R. 116.

An agreement was first executed in England by D and E, and by A, the senior partner in the firm, and stamped with the stamp required by English law for agreements executed in England, and it was subsequently executed in India by B and C, the other two partners, but not stamped with an Indian stamp. *Held* that the agreement was liable to Indian stamp-duty, and was not admissible in evidence unless and until the proper stamp-duty and penalty under Act XVIII. of 1869 were paid.—*OAKES v. JACKSON*, 1 L. R., 1 Mad. 134.

Orders upon tenants to hold themselves responsible to a particular person to whom a release has been made by their landlord are not documents which the law requires to be stamped, and ought not to be rejected as evidence on the ground of their not being stamped.—*BUKSHEE KUNNEE LALL v. THAKOORNATH SAI*, 25 W. R. 80.

Sec. 3, art. 5.

The definition of the word "bond" in the Stamp Act of 1869 is not exhaustive; the word "includes," in art. 5 of s. 2, has an extending force, and does not limit the meaning of the term to the substance of the definition.—*IN THE MATTER OF THE PETITION OF NASIBUN; NASIBUN v. PREOSUNKER GHOSH*, 1 L. R., 8 Cal. 534.

Entries of loans in account-books cannot be treated as bonds within the meaning of art. 5, s. 3 of Act XVIII. of 1869.—*QUEEN v. BULDEO*, 2 N.-W. P. H. C. R. 453.

Sec. 3, art. 11.

An instrument, which purports to convey two or more properties for a sum of money, composed of items described in the instrument as the values of those properties, is simply a deed of sale coming under the definition of "conveyance" in Act XVIII. of 1869, s. 3. The stamp-duty properly levi-

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able upon such an instrument should, therefore, be calculated upon the aggregate sum specified therein, and not upon the various items composing that sum.—*In re TUKARAM HARI ATRE*, 10 Bom. H. C. R. 354.

Certificates of sale issued under ss. 35 and 40 of Mad. Act VIII. of 1865 are not conveyances subject to stamp-duty.—*ANONYMOUS CASE*, 8 Mad. H. C. R. 112.

Sec. 3, art. 15.

After a complete lease has been executed, stamped, and registered, if another document is prepared and executed with a view to alter the first, and substitute new terms so far as the rent is concerned, it requires, under the Stamp Act, to be itself stamped with the stamp provided for a lease.—*BYJNATH DUTT JHA v. PUTSHEE DOBAIN*, 20 W. R. 36.

Sec. 3, art. 25.

A suit on a promissory note payable on demand which was not stamped was held to have been rightly dismissed, the note being inadmissible as evidence with reference to Act XVIII. of 1869, s. 3, art. 25. *Held* that in such a case the plaintiff, if he recovers at all, must do so on the contract actually made, and not on any implied contract.—*ANKUR CHUNDER ROY CHOWDHRY v. MADHUB CHUNDER GHOSE*, 21 W. R. 1.

Sec. 4.

An unstamped instrument executed in foreign territory, and valid under the law of the place of execution, is admissible as evidence in Courts of British India, provided it does not affect any property situated in British India (Act XVIII. of 1869, s. 4).—*NARAYAN SADASHIV v. BAPUJI BALAL*, 7 Bom. II. C. R. (A. C.) 140.

Sec. 9.

Under Act XVIII. of 1869, s. 9, a one-anna stamp is the proper stamp for a document containing an account stated, and stipulating for payment of interest.—*GIRDHAR NARAN v. UMAR AJU*, I. L. R., 4 Bom. 326.

Sec. 18.

Quare.—Although there have been decisions in the English Courts upon the Stamp Act which support the contention that a defendant's written statement and deposition may contain such an admission as renders it unnecessary for the plaintiff to put the written contract in evidence, yet do not the words of s. 18 of Act XVIII. of 1869 prevent such a contention?—*ANKUR CHUNDER ROY CHOWDHRY v. MADHUB CHUNDER GHOSE*, 21 W. R. 1.

Even if a document is not admissible, as being unstamped, the plaintiff might recover

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on such part of the case as he could make out by other evidence (provided it is recoverable with reference to the law of limitation), notwithstanding that he had in his plaint referred to such documents as the basis of his suit.—*NOOR BIBER v. RUMZAN*, 24 W. R. 198.

Sec. 20.

An Appellate Court has no authority to direct the reception of an unstamped document to which the provisions of s. 20 of the Stamp Act (XVIII. of 1869) apply, unless the amount of stamp-duty and prescribed penalty was tendered when the document was first offered in evidence and rejected.—*CHAMPABATY v. BIBI JIBUN*, I. L. R., 4 Cal. 213; *GOUR PERSHAD LAL v. LALLA NUND LAL*, 7 W. R. 439.

A District Court refused to allow, under Act XVIII. of 1869, s. 20, an insufficiently-stamped document to be admitted on payment of the full amount of stamp-duty and the penalty on the ground that it was wilfully executed in fraud of the Stamp Law. *Held* that the High Court could not in special appeal question the correctness of the District Court's refusal. *Pendse v. Malse* (3 Bom. H. C. R., A. C., 94) commented on.—*GAMBHIRMAL v. CHEJMAL*, 10 Bom. H. C. R. 406.

A bond written partly on one and partly on another stamp-paper, the two aggregating the proper stamp leviable, was tendered in evidence without the certificate required by s. 49 of the Stamp Act. *Held* that there was a deficiency in the stamp on the bond, and therefore a liability to the penalty under s. 20. The deficiency must be calculated to be equivalent to the difference between the value of the stamp on one of the papers and the whole value chargeable.—*ANONYMOUS*, 7 Mad. H. C. R. (Ap.) 36.

In cases where a lost deed is shown not to have been stamped, the Court should require the same money to be paid, as if the deed itself were produced.—*HARAN CHUNDER BHOOREE v. RUSSICK CHUNDER NEOGY*, 20 W. R. 63.

Sec. 22.

Where a Subordinate Judge admitted an unstamped document after payment of stamp-duty and penalty under Act XVIII. of 1869, s. 20, and endorsed on it a certificate that the proper stamp had been levied, but found out afterwards that the original omission was owing to an intention to evade payment of stamp-duty, *held* that the certificate was not such as was contemplated by s. 20, and did not make the document admissible; and that the Judge ought, under s. 22, to have impounded the document, and sent it to the Collector.—*PROSUNNO NATH*

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LAHIREE v. TRIPOORA SOONDUREE DABEE, 24 W. R. 88.

Secs. 24, 29, and 44.

That which the Magistrate has to adjudicate upon, on a prosecution coming before him under s. 24 of the Stamp Act, is whether an offence against the Act has been committed, and whether the prosecution has been brought before him by the proper officer. Any person who makes himself liable by committing an offence within the terms of s. 29 and the following sections, and who is prosecuted by the Collector or other officer duly empowered, may be convicted by the Magistrate under s. 44. If an instrument called a promissory note or other document of that kind, and as such liable to the duty imposed by the Act, is not duly stamped, the person subject to penalty is the person who makes it, and not the person in whose favour it is made. The Magistrate of the district should not himself try a case in which he instituted the prosecution as Collector.—*QUEEN v. NADI CHAND PODDAR*, 24 W. R. (Cr.) 1.

Sec. 28.

A document, which by law requires a one-anna adhesive stamp to be affixed, must be received in evidence, if, at the time of its being tendered, it bears the requisite stamp, even though such stamp has been affixed subsequently to the execution of the document.—*BHAURAM MADAN GOPAL v. RAMNARAYAN GOPAL*, 12 Bom. H. C. R. 203; *NOOR BIBEE v. RUMZAN*, 24 W. R. 198; *KALI CHURN DAS v. NOBO KRISTO PAL*, 9 C. L. R. 272.

Under s. 28 of Act XVIII. of 1869, a Court has no power to admit in evidence an unstamped promissory note (payable on demand or otherwise) upon the payment of the stamp-duty and the penalty laid down in s. 20 of that Act.—*DOSABHAI KAVASJI v. KHERBADJI HORMASJI*, 7 Bom. H. C. R. (O. C.) 180.

In a suit brought on the following document, dated 25th October 1869—"Whereas I, defendant, have borrowed Rs. 1,500 from you without interest without a bond, hence I declare that I shall repay, on or before 15th Falgun, the whole amount as one sum, and take back this chitta: should I fail to repay the amount in question on the above date, I will pay interest on the same"—it was objected that, the document being unstamped under s. 3, Act X. of 1862, the Stamp Act in force at the date of its execution, it was inadmissible in evidence; and it was contended for the plaintiff that it was admissible on payment of the penalty. The Judge applied s. 28, Act XVIII. of 1869, and held he had no power to receive it on

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payment of the penalty. *Held* the Judge was bound to comply with Act XVIII. of 1869, and was therefore right in refusing to receive the document. *Held*, also, the document was a promissory note within s. 28 Act XVIII. of 1869.—*NANDAN MISSER v. CHATTER BATI*, 13 B. L. R. (Ap.) 33; *S. C.*, *NUNDUN MISSER v. CHITTUR BUTTEE*, 21 W. R. 446.

The following document, bearing a one-anna stamp, was admitted by the Court of first instance, and accepted by the Lower Appellate Court as bearing a sufficient stamp: "My dear sister M,—Be it known that Rs. 750 on account of the former note of hand and Rs. 225 of to-day's date, amounting in all to Rs. 975, are due to you by me. I promise to pay you this sum in two months. I am already negotiating for a loan from another place. Rest assured, no harm will come to your money, and for your satisfaction and security this note of hand is given to you. Keep this as a voucher, and consider the former note of no use. At the time of payment this note is to be returned to me." *Held* that the document was a promissory note, and should have borne a stamp of 12 annas. The deficiency in the stamp could not have been supplied when the document was offered in evidence.—*MAKBUL AHMAD v. IFTIKHAR-UN-NISSA BEGUM*, 7 N.-W. P. H. C. R. 124.

A promissory note upon a one-anna stamp, dated in August 1870, provided for the repayment of the amount mentioned in it on or before the 12th July 1871. In a suit upon the promissory note, *held* that it was not receivable in evidence upon payment of a penalty.—*CHINNA PERUMAL NAICKER v. ANNAMMAL*, 7 Mad. H. C. R. 361.

Sec. 29.

A Magistrate is bound, for the purpose of ascertaining whether any and what penalty should be imposed, to consider whether a person prosecuted under s. 29, Act XVIII. of 1869, had any intention to defraud by evading payment of stamp-duty.—*EMPRESS v. DWARKANATH CHOWDHRY*, 1 L. R., 2 Cal. 399.

Intention to evade payment of stamp-duty is not an essential ingredient in the offence described in s. 29 of Act XVIII. of 1869. *Held* that the donor under a deed insufficiently stamped was properly convicted, but that the donee had committed no offence under the section.—*ANONYMOUS*, 6 Mad. H. C. R. (Ap.) 5.

Sec. 43.

A Magistrate, who has been authorized by the Collector of a district, under s. 43 of the Stamp Act, to prosecute offenders

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against the stamp-laws, is not competent also to try persons whom he prosecutes. The Collector should appoint some person other than a Magistrate to conduct the prosecutions.—*EMPRESS v. GANGADHUR BHUNJO*, 1 L. R., 3 Cal. 622; 2 C. L. R. 179.

The Collector, being primarily responsible for the prosecution of offences against the Stamp Acts of 1869 and 1879, should not himself try, as a Magistrate, a person accused of an offence against either of those Acts.—*EMPRESS v. DEOKI NANDAN LAL*, 1 L. R., 2 All. 806.

Sec. 49.

A bond written partly on one and partly on another stamp-paper, the two aggregating the proper stamp leviable, was tendered in evidence without the certificate required by s. 49 of the Stamp Act. *Held* that there was a deficiency in the stamp on the bond, and therefore a liability to the penalty under s. 20. The deficiency must be calculated to be equivalent to the difference between the value of the stamp on one of the papers and the whole value chargeable.—*ANONYMOUS*, 7 Mad. H. C. R. (Ap.) 36.

Sch. I. and Sch. II., art. 11.

The plaintiffs drafted the following letter, dated 5th June 1871, and sent it to the defendant for signature: "I have this day sold to you 500 to 700 cases of first quality of hogs' lard of my manufacture and mark, at Rs. 43 per case of eight tins of ten seers each, or two bazaar maunds nett, as usual, delivery to be given and taken in all twelve months, as it is prepared, by instalments of forty to sixty cases at a time from my manufactory, commencing from this day. Cash on delivery of each lot. I engage not to sell any hogs' lard to any party besides yourselves, nor to make any shipments during the term of this contract without first obtaining your consent in writing, or I will render myself liable to yourselves to a penalty of Rs. 5,000 by way of liquidated damages without prejudice to your other rights. Should I fail to deliver the hogs' lard to you according to this contract, and should you fail to take delivery in any month of any of the instalments of hogs' lard when ready and after I have given you notice in writing, you must render yourselves similarly liable to a penalty of Rs. 5,000 as and by way of liquidated damages." This letter was signed by the defendant, and, as the plaintiffs alleged, formed the contract between them. The letter bore a stamp of one anna. In an action for a breach of the contract, it was tendered in evidence by the plaintiffs, and objection was taken to it that it was insufficiently stamped, and that it required an *ad-*

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valorem stamp as being a bond for the payment of money under Act XVIII. of 1869, Sch. I. *Held* it was a document which required an 8-anna stamp only under art. 11 of Sch. II. of the Act, and the document was admitted on payment of the stamp and penalty.—*ROBERT AND CHARRIOL v. SHIRCORE* 7 B. L. R. 510.

A letter by which a chose in action (a debt) was equitably assigned does not require a stamp where the chose in action is not in British India at the time of the assignment.—*MEGJI HANSRAJ v. RAMJI JOITA*, 8 Bom. H. C. R. (O. C.) 169.

Sch. I., art. 15.

No *ad-valorem* stamp-duty is payable under Act XVIII. of 1869 upon a conveyance where the consideration consists of shares in a public company made over to the vendor. The word "amount" in art. 15, Sch. I. of that Act signifies the sum total, or amount of money, forming the consideration, and the words, "or secured," apply only to cases of mortgages and the like, not to an out-and-out conveyance.—*IN THE MATTER OF PORT CANNING LAND COMPANY*, 16 W. R. 208.

Sch. II., art. 5.

An adjustment of account is not admissible in evidence, unless stamped with a 1-anna stamp.—*TARINEY CHURN NUNDY v. ABDUR ROHMAN*, 2 C. L. R. 346.

In a running account, a balance brought forward from the close of a previous year is not to be considered a *new* balance requiring a fresh stamp. Act XVIII. of 1869, Sch. II., art. 5, providing for one stamp only to be affixed in such a case.—*INDRA CHAND ASWAL v. KALEE DOSS MITTER*, 24 W. R. 439.

On the 9th October 1875 the book containing the accounts between the plaintiff and defendant kept by the plaintiff was examined by the parties, and a balance was struck in the plaintiff's favour, which was orally approved and admitted by the defendant. In a suit by the plaintiff for the amount of this balance "on the basis of the account-book," *held* that the entry of the balance struck, not being signed by the defendant, was not a note or memorandum of the kind mentioned in art. 5, Sch. II. of Act XVIII. of 1869, and did not therefore require to be stamped.—*NAND RAM v. RAM PRASAD*, 1 L. R., 2 All. 641.

A hath-chitta, drawn up by only one of two parties to a money-transaction, and purporting to represent the balance of accounts between them, but not assented to in any way by the other party, is not such a document as is contemplated by cl. 5, Sch. II.

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of the General Stamp Act, and does not require to be stamped.—*KOONJO MOHUN DOSS v. KRISHNA CHUNDER SHAHA*, 25 W. R. 361.

Sch. II., art. 11.

Where a pleader is to receive a remuneration under a special agreement contained in his vakalatnama, or in a separate document, the document containing the agreement must bear a stamp of adequate value.—*NUTHOO LALL v. BUDDREE PERSHAD*, 3 Agra 286.

A contract taken by the Department of Public Works for the execution of works falls within art. 11, Sch. II., Act XVIII. of 1869, and must bear a stamp of 8 annas. Where a contractor's sureties give bonds for the performance by him of his agreement, the bonds are chargeable with duty under art. 5, Sch. I.—*ANONYMOUS*, 13 W. R. 353.

An instrument which acknowledged receipt of a sum of money, and provided for the payment of interest at a specified rate per mensem, was held to be an agreement falling within Act XVIII. of 1869, Sch. II., art. 11.—*FERRIER v. RAM KALPA GHOSE*, 23 W. R. 403.

Sch. II., art. 13.

For a power-of-attorney executed under the provisions of s. 33 (a) of the Registration Act of 1871 (Act VIII. of 1871), a stamp of 8 annas is sufficient under art. 13, Sch. II. of the General Stamp Act (XVIII. of 1869).—*In re KESHA v. KASINATH*, 9 Bom. H. C. R. 43.

Sch. II., art. 15.

A schedule appended to a deed of sale does not require to be stamped under the provisions of Act XVIII. of 1869.—*ANONYMOUS*, 6 Mad. H. C. R. (Ap.) 36.

Sch. II., art. 32.

An instrument authorizing a person to receive on behalf of another such sums as should become due in the course of the execution of a certain work is not an assignment of money, but a power-of-attorney, and is covered by a stamp of Rs. 8, whatever may be the amount recoverable under it.—*BHAGVANDAS KISHORDAS v. ABDUL HUSEIN MAHOMED ALI*, 1 L. R., 3 Bom. 49.

A vakalatnama authorizing a pleader to receive, during the course of a suit which he has been empowered to conduct money or documents receivable by his client in the ordinary course of such suit or in consequence of the order or decree of the Court in such suit, does not require a stamp under Act XVIII. of 1869.—*ANONYMOUS*, 1 L. R., 3 Cal. 767; s. c., *IN THE MATTER OF ACT XVIII. of 1869*, 3 C. L. R. 13.

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Sch. II., art. 38.

The accused was prosecuted under Act XVIII. of 1859, s. 29, for executing a document on insufficiently stamped paper. The document recited that, "whereas A and B have sold to me 2 gundas 3 cowries of land under a kobala, dated the 9th of Jeyt 1283, in lieu of a consideration of Rs. 695, and whereas I have returned to the vendors in all 4 cottahs of land worth about Rs. 25, and whereas, in lieu of the said land, the said vendors have given me 4 cottahs of zerait land held by them, now I or my heirs shall have no objection or contest whatever in regard to the mutual exchange of lands between the vendors and me, the purchaser; hence I have executed this chitti by way of conveyance or deed of exchange which may be of service when required." This document bore a stamp of 8 annas, and it was executed only by the accused, and presented by him for registration. Held that the document was an instrument of transfer within the meaning of art. 38, Sch. II., Act XVIII. of 1869.—*EMPRESS v. DWARKANATH CHOWDHRY*, 1 L. R., 2 Cal. 399.

Sec. 3, cl. 4, Act I. of 1879.

Where an instrument, bearing date the 24th September 1881, stamped with an adhesive stamp of 1 anna, and attested, recited that an account was made up of the principal and interest due on a former bond executed by the defendant to the plaintiff, and that a certain sum was found due at the date of the instrument, the defendant promising to pay interest at a certain rate on the sum thus found due, and pay the principal on demand, held that the instrument was a bond within the definition given in Act I. of 1879, and should be stamped accordingly.—*BALKRISHNA TRIMBAK v. GOVIND PAND NAIK*, 1 L. R., 8 Bom. 297.

Sec. 3, cls. 11 and 19.

By a deed of family arrangement, one brother conveyed a pergunnah and the sum of two-and-a-half lakhs of rupees to a younger brother, on condition that the latter should release certain family-property on which he had claims. Held that the deed was neither a conveyance nor a settlement, nor an instrument of partition, within the meaning of Act I. of 1879.—*IN THE MATTER OF THE MAHARAJAH OF DURBHUNGAH*, 1 L. R., 7 Cal. 21.

Sec. 3, cl. 17.

An entry made by a creditor in the khattabook of the debtor, and signed by him for the payment of a sum of money in discharge of a debt, is a "receipt" within the meaning of s. 3, cl. 17, of the Stamp Act, and, as such, must be stamped under art. 52, Sch. I.

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of that Act.—*QUEEN-EMPRESS v. JUGGER-NATH*, I. L. R., 11 Cal. 267.

Sec. 7.

In a bond engrossed on a stamp-paper of sufficient value, and dated the 19th April 1879, the contract of the principal was written first, and after his signature followed the contract of the surety, signed by the latter. The document commenced on the side other than that on which the stamp was impressed, and terminated on the side impressed with the stamp. The stamp was not in any way defaced, nor was the paper so written as to admit of the stamp being used again. *Held* that the bond constituted only one instrument, and was properly stamped, not being open to objection under ss. 7, 12, 13, and 14 of the Stamp Act, 1879. The construction of the words "on the face of the instrument," used in s. 12 of Act I. of 1879, considered. *Quere*.—Whether certain Government notifications—to the effect that an instrument, commenced on the side of the paper other than that on which the stamp is impressed, and completed on the side on which the stamp is impressed, is, under s. 12 of Act I. of 1879, to be treated as unstamped; and prohibiting writing on the reverse of an impressed, stamped paper—are *ultra vires* as being more stringent than, and therefore inconsistent with, that Act?—*DOWLATRAM HARI v. VITHO RADHOJI*, I. L. R., 5 Bom. 188.

Sec. 7, para. 2, and Sch. I, art. 54.

J and S passed to their brother E an instrument which set forth (1) that J and S relinquished their right to certain property in favour of E; (2) that E was to discharge certain debts; and (3) that E was to pay to J and S an annuity. *Held* that the provisions in favour of J and S were a mere recital of the consideration moving from E; that no interest was created in favour of J and S; and that, therefore, the instrument should be stamped as a release only.—*EKNATH S. GOWNDE v. JAGGANNATH S. GOWNDE*, I. L. R., 9 Bom. 417.

Sec. 10.

A hundi for a sum of Rs. 380, payable otherwise than on demand, cannot be stamped with an adhesive stamp. The words, "drawn or made out of British India," in cl. b of s. 10 of the Stamp Act of 1879, apply to the entire clause.—*DEVAJI v. RAMAKRISHNAH*, I. L. R., 2 Mad. 173.

Secs. 11, 62.

The first paragraph of s. 11 of the General Stamp Act (I. of 1879) applies to cases in which the instrument chargeable with duty may be stamped after execution. A bill for the monthly salary of a Govern-

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ment official was sent to the treasury for payment, when it was discovered that the one-anna receipt-stamp affixed thereto was not cancelled, and a prosecution was thereupon instituted by the Collector against the official in question, who had executed the instrument, under s. 62 of the General Stamp Act. The accused was convicted under that section by the Deputy Magistrate, and the District Magistrate on appeal, holding that, upon the evidence, the conviction should have been for abetment, and not for the principal offence, altered the finding accordingly to a conviction under s. 109 of the Penal Code, read with ss. 11 and 62 of the General Stamp Act. *Held* that the receipt to the salary-bill in question was an instrument which was required to be stamped before or at the time of execution, and was not of the kind contemplated by the first paragraph of s. 11 of the General Stamp Act; that consequently there was no abetment of any offence under ss. 11 and 62 of the Act; that the offence which appeared to have been committed was one under the second paragraph of s. 61; but that, no sanction having been given by the Collector under s. 69 for a prosecution under s. 61, it was not advisable to interfere further than by setting aside the conviction and sentence.—*QUEEN-EMPRESS v. RAHAT ALI KHAN*, I. L. R., 9 All. 210.

Sec. 24.

Claims on property admitted by the parties or established by a decree of a Court should be entered in the certificate of sale, and be computed as part of the purchase-money in ascertaining the amount of the stamp duty leviable on the certificate of sale. Other claims should neither be entered in the certificate of sale, nor computed as part of the purchase-money. It is the duty of the purchaser to provide the stamp.—*In re RAMKRISHNA*, I. L. R., 9 Bom. 47.

Sec. 34.

An instrument which comes within the definition of a promissory note in the General Stamp Act, 1869, and is not duly stamped according to that Act (which was in force at the date of its execution), cannot be admitted in evidence upon payment of penalty under s. 34 of the Stamp Act, 1879, on the ground that it falls within the definition of a bond in the latter Act. The levy of a penalty authorized under prov. 1 of s. 34 of the Stamp Act, 1879, implies a punishment for neglect in failing to affix the proper stamp at the time of execution. The word "chargeable" in the above proviso means chargeable under the Act in force at the date of the execution of the instrument.—*NARAYA-*

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NAN CHETTI v. KARUPATHAN, I. L. R., 3 Mad. 251.

On the 17th September 1866, G gave Z a usufructuary mortgage of certain immoveable property to secure the repayment of Rs. 7,101 purporting to be advanced by Z. As a fact only Rs. 2,301 of that amount were actually advanced by Z, the balance, Rs. 4,800, being advanced by R. In 1868 Z sold the mortgagee's interest in the deed of mortgage to R for Rs. 2,301, the transfer being by endorsement, and not being stamped. In April 1869 G transferred a portion of the mortgaged property to A. In September 1869 R sued to have such transfer set aside, claiming in virtue of the deed of mortgage and the transfer endorsed thereon. On the 23rd September 1871 the Court of first instance refused to receive the transfer by endorsement in evidence, and to proceed with the suit, because such transfer was not stamped. On the 20th April 1872 Z executed a stamped transfer of the mortgagee's interest in the deed of mortgage in favour of R. R, treating the order of the 23rd September 1871 as an interlocutory one, presented the instrument of the 20th April 1872 to the Court, and prayed that it would proceed with the suit. The Court proceeded with the suits, and gave R a decree. This decree was reversed by the Court of first appeal on the ground that that instrument did not cure the defect of the transfer by endorsement, and that the order of the 23rd September 1871 was final. The decree of the Court of first appeal was affirmed by the High Court in June 1873. Thereupon R made a criminal charge against Z of cheating in respect of the transfer by endorsement. This charge was eventually dropped, and was followed by a reference to arbitration by R and Z. According to the agreement to refer, which was dated the 17th August 1874, the dispute between the parties was whether R should return the deed of mortgage to Z, and Z return the Rs. 2,301 to R or not. The arbitrators made an award, which was dated the 18th August 1874, which directed, *inter alia* that R should return the deed of mortgage to Z, and Z return the Rs. 2,301 to R. The deed was returned to Z, but the money was not returned to R. In 1875 Z applied, under Reg. XVII. of 1866, to foreclose the mortgage. In 1880, the mortgage having been foreclosed, S, as Z's representative, sued for proprietary possession of the mortgaged property. The lower Courts held that all the acts of R and Z subsequent to the disposal of R's suit of 1869 were fraudulent and collusive, and done with a view to evade the stamp-law, and the person actually interested in the deed of mortgage was R, and

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not S, and on this ground, as well as on other grounds, dismissed S's suit. *Per* Straight, J.—That the transfer by endorsement of the deed of mortgage, notwithstanding such transfer was not stamped, transferred to R the mortgagee's interest in the deed; that such interest could not be re-transferred to Z except by a formal instrument stamped according to law, inasmuch as any other mode of re-transfer would leave Z under the same disabilities as regards the stamp-law as R, as any suit instituted by Z would, strictly speaking, be based, not on the deed of mortgage, but on the re-transfer; and that, therefore, under these circumstances, and having regard to the fact that Z had not returned the Rs. 2,301 to R, S actually, though not ostensibly, based his suit upon a re-transfer of the mortgagee's interest in the deed of mortgage, which was not stamped, and for which he had not given any consideration, and consequently his suit was not maintainable. Also, that the award could not alter the effect of the transfer by endorsement. *Per* Mahmood, J.—That the lower Courts were not justified in their findings as to the fraudulent and collusive nature of the acts of R and Z after the disposal of R's suit of 1869, or in finding that the person actually interested in the deed of mortgage was R, and not Z, such findings being based upon pure conjectures. That the unstamped transfer by endorsement was inadmissible to show that Z had transferred his interest in the deed of mortgage to R, whether R or the mortgagor wished to use it in order to show that fact, and consequently Z must be still regarded as the person interested in the deed, and S was therefore entitled to maintain the suit.—SHANKAR LAL v. SUKHRAN, I. L. R., 4 All. 462.

The plaintiff sued on two documents, signed by the defendant, each bearing a one-anna stamp, in one of which a sum of Rs. 203 was stated to be "due to you, and payable on the 16th July;" and in the other a sum of Rs. 515 was mentioned "for which I give you this writing, the whole amount of which will be paid up in full on the 3rd August." Held that the documents were not mere acknowledgments, but promissory notes, and being payable otherwise than on demand were not sufficiently stamped, and consequently not admissible in evidence under s. 34, Act I. of 1879—MANICK CHUND v. JOMOONA DOSS, I. L. R., 8 Cal. 645; s. c., MANICK CHUND v. JAMOONA DAS, 7 C. L. R. 88.

Sec. 34, prov. i.

The plaintiff sued to recover from the defendant the balance of a debt due on an

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unstamped note passed to him by the defendant for a consideration of Rs. 38. The note recited that the defendant had received the amount, and would repay it after three months from the date of its execution. The defendant admitted, by his written statement, execution of the note and the receipt of Rs. 37 in the shape of paddy, but alleged that he had paid off the debt. He also contended that the note, being unstamped, could not be admitted in evidence. The plaintiff contended that the note was a bond, and could be admitted on payment of the stamp-duty and the penalty under s. 34 of the Stamp Act I. of 1879, which he offered to pay. The Subordinate Judge was of opinion that the note in question was a promissory note, but that the defendant's admission of the consideration enabled the plaintiff to sue, although the note itself was inadmissible. On reference to the High Court, *held, per* Jardine, J., that the document sued on was a promissory note, and that, the suit being brought on it as the original cause of action, the admission of its contents by the defendant did not avail the plaintiff, the document itself being inadmissible for want of a stamp. *Held, per* Birdwood, J., that the plaintiff could not recover irrespectively of the promissory note, as he did not seek to prove the consideration otherwise than by the note, which was inadmissible in evidence. The admission contained in the defendant's written statement did not amount to an admission of the claim as for money lent. The case was one in which no secondary evidence under s. 65, cl. b, of Act I. of 1872, was admissible, the primary evidence, the document itself, being forthcoming. The plaintiff not having offered any independent evidence of the advance alleged by him, and the defendant not having admitted by his written statement that any money was lent to him, as alleged by the plaintiff, but having set up an entirely different transaction in respect of which he admitted no remaining liability, the plaintiff's suit should be rejected.—*DAMODAR JAGANNATH v. ATMARAM BABAJI*, I. L. R., 12 Bom. 443.

Sec. 34, prov. iii.

The plaintiff sued to recover the amount due on three *khatas*. The defendant objected that the *khatas* were not duly stamped. The Subordinate Judge held that the instruments were bonds, and as such admitted them in evidence on payment of the proper stamp-duty and penalty, under s. 34, prov. i., of the Stamp Act (I. of 1879). At a subsequent stage of the same suit, his successor in office was of opinion that the *khatas* in question were promissory notes; that as such they could be stamped only at the date

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of their execution, and that they had been illegally admitted in evidence under s. 34, prov. i. He accordingly dismissed the suit. On appeal, the District Judge agreed with the Subordinate Judge that the instruments sued on were promissory notes, but held that, after they had once been admitted in evidence on payment of the stamp-duty and penalty, the question of their admissibility could not be subsequently raised in the suit under prov. iii. to s. 34 of the Stamp Act (I. of 1879). He therefore reversed the decree of the Subordinate Judge, and remanded the case for trial on the merits. Against this order of remand, defendants appealed to the High Court. *Held* that the promissory notes having been once admitted in evidence could not afterwards be rejected on the ground of their not being duly stamped. *Held, also*, that, under s. 578 of the Code of Civil Procedure (Act XIV. of 1882), the High Court could not interfere with the order of remand, as it was not one which affected the merits of the case or the jurisdiction of the Court.—*DEVACHAND v. HIRACHAND KAMARAJ*, I. L. R., 13 Bom. 449.

Secs. 37 and 40.

Six persons acted as arbitrators in a dispute between two of their fellow-villagers, and delivered their award in writing. Subsequently the award was filed in evidence by one of the disputants in the civil suit in the Court of the Munsif of Cuttack, who, on the ground that the document bore no stamp, impounded it, and forwarded it to the Collector, who ordered the writer to be prosecuted. The Deputy Magistrate, to whom the case was referred summoned the six persons who had acted as arbitrators, and fined them Rs. 25 each. On a reference to the High Court by the District Magistrate, *held* that the conviction was illegal, and should be set aside. *Held, also*, that the procedure laid down in s. 37 of the Stamp Act must be strictly followed; and that, before a prosecution can be instituted under s. 40, the Collector is bound to form an opinion as to whether the offence was committed with the intention of evading payment of the proper duty.—*EMPRESS v. SODDANUND MAHANTY*, I. L. R., 8 Cal. 259; 10 C. L. R. 365.

Sec. 37 (b) and secs. 40, 61, 63.

A District Judge impounded a partition-deed produced before him, and forwarded it to the Collector under s. 35 of the Stamp Act, 1879, being of opinion that the executant of the deed had committed an offence under s. 63. The Collector, under s. 69, sanctioned the prosecution of the executant, who was convicted by the Magistrate of an offence under s. 63 of the Act. On appeal,

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the Sessions Court acquitted him, on the ground that the Collector had not complied with s. 37 (b) or s. 40 of the Act. *Held* that the acquittal was wrong. *Empress v. Dwarkanath Chowdhry* (I. L. R., 2 Cal. 399), *Empress v. Soddanund Mahanty* (I. L. R., 8 Cal. 259), and *Empress v. Yanki* (I. L. R., 7 Bom. 82) considered. — *QUEEN-EMPRESS v. VENKATRAYADU*, I. L. R., 12 Mad. 231.

A letter containing a request to borrow a certain sum of money, promising that the same should be repaid with interest on a certain day, is not liable to stamp-duty. It is not a promissory note, but a mere proposal under s. 4 of the Contract Act (IX. of 1872). — *DHONDBHAT NARHARBHAT v. ATAMAM MORESHVAR*, I. L. R., 13 Bom. 669.

An application by an auction-purchaser for a certificate of sale need bear no stamp, since, by s. 316 of the Civil Procedure Code (Act XIV. of 1882), it is not even required to be in writing. — *HIRA AMBAIDAS v. TEKCHAND AMBAIDAS*, I. L. R., 13 Bom. 670.

Sec. 51.

S. 51, Ch. VI. of Act I. of 1879, enacts that, "subject to such rules as may be made by the Governor-General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned," &c. According to a rule made with reference to that section, "the Collector may require every person claiming a refund under Ch. VI. of the said Act, or his duly-authorized agent, to make an oral deposition on oath," &c. *Held*, therefore, that the Collector himself is the officer, and no other, to whom power is given by law to make inquiries into applications for allowances for spoiled stamps, to take evidence on oath in reference thereto, and to grant or refuse such applications, and he cannot delegate his authority in the matter. *Held*, therefore, where a person had applied for a refund under Ch. VI. of Act I. of 1879, and the Collector made over the application for inquiry to a Deputy Collector, that the Deputy Collector was not entitled to put the witnesses produced by the applicant on their oaths, and consequently, in reference to the statements of such witnesses, no charge under s. 181 or s. 193 of the Penal Code was sustainable. — *EMPRESS v. NIAZ ALI*, I. L. R., 5 All. 17.

Sec. 61.

A debtor, having paid a sum of money to his creditor, accepted from the latter an unstamped receipt, promising to affix a stamp thereto. *Held* that this did not constitute abetment, within the meaning of s. 107 of the Penal Code, of the offence of making an unstamped receipt. *Empress v. Bahadur*

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Singh (Weekly Notes, All., 1885, p. 30) distinguished. *Empress v. Yanki* (I. L. R., 7 Bom. 82) and *Empress v. Bhairon* (Weekly Notes, All., 1884, p. 37) referred to. — *QUEEN-EMPRESS v. MITTHU LAL*, I. L. R., 8 All. 18.

M acknowledged receipt of a cheque for Rs. 100 by letter. The letter was not stamped. *Held* that M was properly convicted under s. 61 of the Stamp Act, 1879. — *QUEEN-EMPRESS v. MUTTIRULANDI*, I. L. R., 11 Mad. 329.

The term "accepting" used in s. 61 of the Stamp Act, 1879, does not mean "receiving," but "executing as acceptor." To receive a promissory note not duly stamped, and put it in suit, does not constitute an offence under s. 61 of the Stamp Act, 1879. — *QUEEN v. GULAM HUSSAIN*, I. L. R., 7 Mad. 71

Sec. 61 and secs. 37, 40, and 69.

A executed to B on plain paper an instrument which should have been executed on a paper bearing a 4-anna stamp. B filed a suit against A in the Civil Court, and produced the instrument in evidence. The Civil Court called upon B to pay the duty and penalty, and, on B's refusal to pay, impounded the instrument, and sent it to the Collector. The Collector, concurring with the opinion of the Civil Court, sanctioned the prosecution, in the Criminal Court, of both A and B, but without requiring the payment of the duty and penalty. The prosecution resulted in the conviction of A under s. 61 of the Stamp Act, I. of 1879, and of B of abetment of A's offence. *Held* that the convictions were illegal, inasmuch as the Collector failed to allow an opportunity of paying the duty and penalty. *Held*, further, that mere receipt of an unstamped instrument did not constitute the offence of abetment of the execution of such an instrument. — *EMPRESS v. JANKI*, I. L. R., 7 Bom. 82.

Sec. 61 and secs. 37 and 40.

A Collector is not bound to hold a formal inquiry, or to record proceedings before directing a prosecution under s. 40 of the Stamp Act, 1879, for an offence against the stamp-law. The law does not require intention to be proved as part of such offence. — *QUEEN-EMPRESS v. PALANI*, I. L. R., 7 Mad. 537.

Secs. 64 and 69.

Prosecution for an offence committed in contravention of s. 64 of the Stamp Act, I. of 1879, cannot be instituted, unless with the previous sanction of the Collector under s. 69 of the same Act. — *QUEEN-EMPRESS v. JETHMAL*, I. L. R., 9 Bom. 27.

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Sec. 68.

The sale of Court-fee stamps without a license was not an offence under the Stamp Act, XVIII. of 1869, but is now specially made so by s. 68 of Act I. of 1879.—*EMPERESS OF INDIA v. JALLU*, I. L. R., 4 All. 216.

Sec. 69.

The Collector, being primarily responsible for the prosecution of offences against the Stamp Acts of 1869 and 1879, should not himself try, as a Magistrate, a person accused of an offence against either of those Acts.—*EMPERESS OF INDIA v. DEOKI NANDAN LAL*, I. L. R., 2 All. 806.

Sch. I., art. 1.

In a running account, a balance brought forward from the close of a previous year is not to be considered a *new* balance requiring a fresh stamp, Act XVIII. of 1869, Sch. II., art. 5, providing for one stamp only to be affixed in such a case.—*INDRA CHAND ASWAL v. KALER DOSS MITTER*, 24 W. R. 439.

On the 9th October 1875 the book containing the accounts between the plaintiff and defendant kept by the plaintiff was examined by the parties, and a balance was struck in the plaintiff's favour, which was orally approved and admitted by the defendant. In a suit by the plaintiff for the amount of this balance "on the basis of the account-book," *held* that the entry of the balance struck, not being signed by the defendant, was not a note or memorandum of the kind mentioned in art. 5, Sch. II. of Act XVIII. of 1869, and did not therefore require to be stamped.—*NAND RAM v. RAM PARSAD*, I. L. R., 2 All. 641.

A khata or account stated, bearing a stamp of one anna, but containing no promise in writing, *held* to be a mere acknowledgment sufficiently stamped, and not a contract within the meaning of s. 25, cl. 3, of Act IX. of 1872.—*CHOWKSI HIMUTLAL v. CHOWKSI ACHRUTLAL*, I. L. R., 8 Bom. 194.

A *nikash* or balance-sheet, made out and signed by a *gomashta* of a business, showing a balance due by him to the owner of the business, is not an acknowledgment of a debt within the meaning of cl. 1, Sch. I. of the Stamp Act, and is admissible in evidence without being stamped. *Brojo Gobind Shaha v. Goluck Chunder Shaha* (I. L. R., 9 Cal. 127) followed.—*NUND KUMAR SHAHA v. SHURNOMOYE (or SHURNOMOYE DAS)*, I. L. R., 15 Cal. 162.

In the course of a suit the plaintiff put in evidence certain entries from his day-books and ledger. The books had been produced

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in Court, and had been returned to the plaintiff, as usual, on his furnishing copies of the said entries. The Subordinate Judge, feeling doubt as to whether such copies should be furnished on stamped paper, referred the question to the High Court. *Held* that the original entries, not having been in the handwriting of the debtor, were not liable to stamp-duty under Sch. I., art. 1, of the Stamp Act of 1879, and that, therefore, the copies of them were not chargeable with any court-fees under Sch. I., art. 8, of the Court Fees Act (VII. of 1870).—*HARECHAND v. JIVNA SUBHANA*, I. L. R., 11 Bom. 526.

Sch. I., arts. 1 and 5.

The defendant, in two letters to the plaintiff in respect of certain contracts to sell Government securities, acknowledged his inability to give delivery, and after calculating the amount of the differences between the contract-prices and the market-prices on the dates of delivery, stated that the amount in respect of the first contract "is due to you, and payable on the 16th July," and that the amount in respect of the other contract was Rs. 515, "the whole amount of which will be paid up in full on the 3rd and 4th August." Both letters were stamped with a one-anna stamp. *Held* that they were insufficiently stamped and inadmissible in evidence.—*MANICK CHUND v. JOMOONA DASS*, 7 C. L. R. 88; s. c., *MANICK CHUND v. JOMOONA DASS*, I. L. R., 8 Cal. 645.

Sch. I., art. 5.

A document was executed in these terms: "This document, a hand-note, is executed by me for the purpose of purchasing a *ghor*. I take from you Rs. 7. I will pay interest on the sum at half-anna per rupee per mensem. Having received the Rs. 7 in cash, this hand-note is executed." *Held* that the document was not a promissory note, nor a bond; but was an agreement to pay, and, as such, was chargeable with duty under cl. 5, Sch. I. of the Stamp Act. *Ferrier v. Ram Kulpa Ghose* (23 W. R. 403) referred to.—*MURARI MOHUN ROY v. KHETTER NATH MULLICK*, I. L. R., 15 Cal. 150.

Sch. I., art. 11.

A bill of exchange for Rs. 500, payable otherwise than on demand, must, under art. 11 of Sch. I. of the Act, be stamped with an impressed stamp of the value of 6 annas.—*RADHAKANT SHAHA v. ABHOY CHURN MITTER*, I. L. R., 8 Cal. 721; s. c., *RADHAKANT SHUBA v. ABHOY CHURN MITTER*, 11 C. L. R. 310.

A decree-holder agreed with the employer of his judgment-debtor, who had been arrested in execution of the decree, to dis-

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charge the latter from arrest upon the condition that his master would pay the amount of the debt. Accordingly, the master executed a document, the material portion of which was as follows: "Be it known that I have borrowed Rs. 986-15 from you in order to pay a decree which was due to you by D P, so I write this in your favour to say that I will pay the said amount to you in six months with interest at 12 annas on every hundred rupees every month, and then take back this parwana from you." This was written upon plain unstamped paper. Subsequently, the amount due not having been paid, the decree-holder sued the executant of the document for its recovery. It was objected that the suit was not maintainable without the document being put in evidence, but that being a promissory note, and not stamped as required by art. 11 of Sch. I. of the Stamp Act, 1879, it was inadmissible in evidence with reference to s. 34. *Held* that the document, though it was a promissory note, was not the contract out of which the defendant's liability arose, but was merely a collateral security for the defendant's fulfilment of his promise to pay the debt, and that, under the circumstances, the plaintiff was entitled to give evidence of the consideration, and to maintain the suit as for money lent, apart from the note altogether. —BALBHADAR PRASAD v. MAHARAJAH OF BETEA, I. L. R., 9 All. 351.

Sch. I., arts. 11, 19.

In determining whether a document is sufficiently stamped for the purpose of deciding upon its admissibility in evidence the document itself as it stands, and not any collateral circumstances which may be shown in evidence, must be looked at. *Bull v. O'Sullivan* (L. R., 6 Q. B. 209), *Gatty v. Fry* (L. R., 2 Ex. D. 265), and *Chandra Kant Mookerjee v. Kartick Charan Chaitle* (5 B. L. R. 103), referred to. Where a cheque bearing a stamp of one anna was dated the 25th September, and the evidence showed it to have been actually drawn on the 8th September, and therefore to have been post-dated, it was contended that the cheque was really a bill of exchange payable 17 days after date, and therefore inadmissible in evidence as being insufficiently stamped. *Held*, in a suit to recover the amount of the cheque on its being dishonoured, that it was admissible in evidence. —RAMEN CHETTY v. MAHOMED GHOUSE, I. L. R., 16 Cal. 432.

Sch. I., art. 13.

Held by the Full Bench that, where a bond is given under the orders of a Court as security by one party for the costs of another, it is subject to two duties—(a) an *ad-valorem* stamp under the Stamp Act, art. 13,

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Sch. I.; (b) a court-fee of eight annas under the Court Fees Act, art. 6, Sch. II.—KALWANTA v. MAHABIR PRASAD, I. L. R., 11 All. 16.

Sch. I., art. 16.

In execution of a decree, certain immoveable property was attached and sold in eight lots to different persons, subject to a mortgage. The applicant was one of the purchasers, and applied for a sale-certificate. A question arose whether, in computing stamp-duty, the whole amount of the principal mortgage-debt, or only a proportionate amount of it, was to be deemed a part of the consideration. On reference to the High Court, *held* that the whole amount of the principal mortgage-debt, and not merely a proportionate amount of it, was to be added to the price, and the total amount to form the consideration upon which an *ad-valorem* stamp-duty was to be calculated, each purchaser obtaining a separate sale certificate.—*In re* THE APPLICATION OF VISHNU KESHAV SATHE, I. L. R., 10 Bom. 58.

Sch. I., arts. 1 and 28.

An indemnity-note, passed to a railway company by a consignee and his surety in respect of goods delivered to the consignee, and for which he is unable to produce the railway-receipt—by which note they undertake to hold the railway company, its agents, and servants, harmless and indemnified in respect of all claims to the said goods—is not an "indemnity-bond" falling under art. 28, Sch. I. of the Stamp Act, I. of 1879, but is an agreement falling under cl. c, art. 5, Sch. I. of that Act, and, consequently, chargeable only with a stamp-duty of 8 annas.—ANONYMOUS CASE, I. L. R., 5 Bom. 478.

Sch. I., art. 44 (a) and (b).

A mortgage-deed dated the 4th August 1883 stipulated that possession was to be given to the mortgagee after the 31st May 1888, if the mortgage-loan was not entirely repaid by that date. On the question being referred to the High Court, whether cl. a or cl. b of art. 44, Sch. I., Stamp Act, I. of 1879, applied to the case, *held* that cl. b applied. The intention of cl. a is to cover cases of mortgage with possession, and the words, "agreed to be given," are to be read as if the words, "at the time of execution," immediately followed and qualified the word "given." Cl. a should be read as if it were worded "when possession of the property * * * is given by the mortgagor at the time of execution, or is agreed to be then given," and not " * * * is then agreed to be given."—HINGANGHAT MILL COMPANY v. REKCHAND, I. L. R., 8 Bom. 310.

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Under the ordinary law of mortgage, the mortgagor is bound so long as the equity of redemption remains with him, to indemnify the estate against expenses incurred in protecting the title. So that, where a mortgage-bond contains stipulations under which the mortgagor engages to repay to the mortgagee any costs he may incur in suit brought against him by the mortgagor's co-sharers, and also any debts charged upon the mortgaged property which the mortgagee may pay, the stipulations do not create any fresh obligation, and require no additional stamp-duty.—**DAMODAR GUNGADHUR v. VAM-ANRAV LAKSHMAN**, I. L. R., 9 Bom. 435.

Sch. I., art. 49.

Held that, inasmuch as Reg. X. of 1829 was not recognized by the Supreme Court, life-policies of insurance issued before 1860 did not require a stamp.—**RAJNARAIN BOSE v. UNIVERSAL LIFE ASSURANCE COMPANY**, I. L. R., 7 Cal. 594; 10 C. L. R. 561.

Sch. I., art. 50.

A document authorizing a vakil to apply for copies of records from the Collector's office is properly stamped with a court fee stamp under art. 10 (a) of Sch. II. of the Court Fees Act, 1870, and does not require to be stamped as a power-of-attorney under art. 50 (b) of Sch. I. of the Stamp Act, 1879.—**REFERENCE UNDER STAMP ACT, 1879**, I. L. R., 9 Mad. 146.

Sch. II., art. 15 (b) and sec. 3 (17).

A receipt given by a Barrister for a fee is exempted from stamp-duty by art. 15 (b) of Sch. II. of the Stamp Act, 1879.—**REFERENCE UNDER STAMP ACT, 1879**, I. L. R., 9 Mad. 140.

Act I. of 1879, Sch. I., art. 16.

Where property is sold at a court-sale subject to a mortgage-lien, the stamp upon the certificate of sale should cover the amount for which the property was sold, as well as the amount of the mortgage-lien reserved. *Sha Nagindas Jeychand v. Halalkhore Nathwa Gheesla* (I. L. R., 5 Bom. 470) followed.—**MEER KAISUR KHAN MURAD KHAN v. EBRAHIM KHAN MUSA KHAN**, I. L. R., 15 Bom 532.

S. 34, Act I. of 1879.

When a document, which, under the stamp laws, requires to be stamped, tendered in evidence, the only question for the Court is whether it bears a proper stamp at the time when it is tendered. The Court is not bound, nor is it at liberty, to allow the parties to go into evidence to show at what time the document was stamped.—**KALI CHURN DAS v. NOBO KRISTO PAL**, 9 C. L. R. 272.

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S. 49, Act I. of 1879.

In execution of a decree, certain immoveable property was attached and sold in eighteen lots to different persons, subject to a mortgage. The applicant was one of the purchasers, and applied for a sale-certificate. A question arose whether, in computing stamp-duty, the whole amount of the principal mortgage-debt, or only a proportionate amount of it, was to be deemed a part of the consideration. On reference to the High Court, *held* that the whole amount of the principal mortgage-debt, and not merely a proportionate amount of it, was to be added to the price, and the total amount to form the consideration upon which an *ad-valorem* stamp-duty was to be calculated, each purchaser obtaining a separate sale-certificate.—**VISHNU KESHAV SATHE, In re THE APPLICATION OF**, I. L. R., 10 Bom. 58.

S. 49, Act I. of 1879.

An application by an auction-purchaser for a certificate of sale need bear no stamp, since, by s. 316 of the Civil Procedure Code (Act XIV. of 1882), it is not even required to be in writing.—**HIRA AMBAIDAS v. TEK-CHAND AMBAIDAS**, I. L. R., 13 Bom. 670.

S. 49 and Reg. II. of 1825, s. 4.

An instrument dated 1853, which purported to be a transfer by the executant of the property inherited by her from her husband subject to the payment of his debts, and in which a provision was made for the maintenance of the executant, and for the re-transfer of the property in case she gave birth to a son, *held* not to be liable to stamp-duty.—**REFERENCE UNDER STAMP ACT**, s. 49, I. L. R., 16 Mad. 419.

Secs. 13, 14, 34.

The endorsement of transfer written on a simple money-bond duly stamped requires a stamp, and can be stamped under s. 34 of the Indian Stamp Act (I. of 1879).—**PRALHAD LAKSHMANRAV v. VITHU**, I. L. R., 17 Bom. 687.

S. 3, cl. 6, Act I. of 1879.

The plaintiff agreed to lend money to the defendant for payment of his trade-debts, &c. In pursuance of the agreement, the defendant gave his creditors *chits* for certain sums. These *chits* were addressed to the plaintiff, and requested him to pay the amounts mentioned therein. He did so, and now sued for the amount advanced. It was contended by the defendant that the *chits*, being cheques or bills of exchange, were inadmissible in evidence, because unstamped. The Court found that, by the agreement, the plaintiff was not constituted the defendant's banker within the meaning

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of cl. 6, s. 3 of the Stamp Act, 1879. *Held* that the *chits* did not require a stamp.—*RATULAL RANGILDAS v. VRIJBHUKHAN PARABHURAM*, I. L. R., 17 Bom. 684.

Reg. XVIII. of 1827, s. 12, cl. 2—Act I. of 1879, s. 49.

In a suit by plaintiff to recover possession of certain immoveable property under a deed of sale executed to him by the defendant's father, while Reg. XVIII. of 1827 was in force, upon a one-anna stamp-paper, a question having arisen as to what stamp-duty the deed should bear for the purposes of the suit, it was referred to the High Court. *Held* that the deed was sufficiently stamped under cl. 2, s. 12 of Reg. XVIII. of 1827; but the plaintiff could not obtain on it a judgment for a sum or value beyond what was covered by that stamp, unless he paid an additional stamp-duty and penalty, which the Court might allow him to do.—*MULJI BECHAR v. JETHA JESHANKAR*, I. L. R., 10 Bom. 239.

Court Fees Act.

The stamp on a suit for partition and possession of the plaintiff's share of joint family-property must be an *ad valorem* one on the value of the share—*BALVANT GANESH v. NANA CHINTAMON*, I. L. R., 18 Bom. 209.

Act X. of 1862, Sch. A., art. 54—Act I. of 1879, s. 49.

Under Act X. of 1862, Sch. A., art. 54, each sharer's copy means each sharer's part as exemplification of an instrument executed in duplicate, triplicate, &c. Where a document, bearing the date June 1863, and purporting to be a deed of partition between two brothers, was unstamped, *held* that it should be stamped as each sharer's copy of an instrument under Act X. of 1862, Sch. A., art. 54.—*NARAYAN RAGHUNATH v. KASHINATH*, I. L. R., 8 Bom. 299.

Act I. of 1879, ss. 5 and 34.

An instrument containing a covenant to do a particular act, the breach of which is to be compensated in damages, is not a bond, and requires an eight-anna stamp only. Remedies on such an instrument and on a bond discussed.—*GISBORNE & Co. v. SUBAL BOWRI*, I. L. R., 8 Cal. 284; 10 C. L. R. 219.

Act XVIII. of 1869, ss. 14, 41.

Where a document, purporting to be a conveyance, and for only one consideration, contains words which merely express, though very informally, the usual covenants for title which every properly-drawn English conveyance contains, these words cannot be considered as constituting an indemnity-bond, so as to render the document liable to

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stamp-duty as an indemnity-bond, in addition to the stamp-duty to which it is liable as a conveyance—REFERENCE BY BOARD OF REVENUE, I. L. R., 1 Mad. 133.

Act XVIII. of 1869, s. 8 (5), (25), Sch. II., No. 11.

The defendant, having borrowed Rs. 50 from the plaintiff, gave him, on the 9th November 1878, an instrument which was in effect as follows: "B (defendant) writes this *rukka* in favour of A (plaintiff) for Rs. 50, cash received, to be repaid on the 13th November 1878: in the event of default, he shall pay interest at one rupee per diem." *Held* (Stuart, C.J., dissenting) that such instrument was a "promissory-note" within the meaning of the Stamp Act of 1869, and not a "bond," or an "agreement not otherwise provided for," within the meaning of that Act. *Held* also that, looking to the whole instrument, it was equitable to hold that the term "interest" was not intended to mean interest in the strict sense of that term, but a penalty, and the amount of interest should be so treated, and a reasonable amount only be allowed. The observations of Pontifex, J. in *Bichook Nath Panday v. Ram Lochun Singh* (11 B. L. R. 135) concurred in.—*BANSIDHAR v. BU ALI KHAN*, I. L. R., 3 All. 260.

Act XVIII. of 1869, s. 3 (25), Sch. II., No. 5.

The plaintiff sold and delivered certain goods to the defendant. The defendant gave the plaintiff, in respect of the price of such goods, the following instrument: "Agra, 14th November 1877. Due to K, cloth merchant, the sum of Rs. 200 only, to be paid next January 1878." This instrument was stamped with a one-anna adhesive stamp. The plaintiff claimed in the present suit from the defendant Rs. 200, and interest on that amount at twelve per cent. per annum from the 14th November 1877 to the date of suit. *Held* by Stuart, C.J., and Pearson, J. (Oldfield, J., and Straight, J., treating the suit as one for a debt), that, although such instrument was not admissible in evidence as a promissory-note, as it was insufficiently stamped, it was nevertheless admissible as proof of an acknowledgment of such debt. *Per* Spankie, J. (treating the suit as based upon a promissory note), that such instrument, being insufficiently stamped, was not admissible in evidence.—*KANHAYA LAL v. STOWELL*, I. L. R., 3 All. 581.

Act XVIII. of 1869, s. 3 (18), (26), Sch. I., cl. 10.

M, the manager of an indigo concern, under s. 243, Act VIII. of 1859, by a deed dated the 1st February 1873, in which the

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owners of the concern joined, which was duly registered, and which was made with the Court's sanction, mortgaged the concern, and pledged and assigned the season's crop to A and B, who were pardanishins, to secure repayment of a large sum of money, consisting partly of the balance of previous loans from the husband of A and B, and partly of a new loan to the extent of what was described in the deed as the estimated outlay of the season. The deed provided that A and B should have a first charge upon the indigo to be manufactured in the season in respect of the moneys secured thereby; that the indigo should be sold subject to A's and B's direction; that, until the debt was paid, M should have no power to transfer, sell, or mortgage the properties thereby mortgaged, pledged, and assigned, or in any way to deal with the sale-proceeds of the manufactured indigo; and that A and B should have full power to arrange for the appointment and dismissal of the servants of the concern, and for its better management. Previously to this, namely, in October 1872, M had, in pursuance of his letter of appointment, filed an estimate for the season's cutlay largely exceeding the sum mentioned in the deed as the estimated outlay, and had alleged that, at the time of executing the mortgage-deed, he had informed one C, who was the general manager of A and B, and as such was the only medium of communication between M and A and B, that further advances would be necessary. According to M's account, C told him that A and B were unable to make further advances, and that he could, if they were needed, obtain them on the usual terms from the plaintiffs, who were indigo brokers. In previous years, during the lifetime of the husband of A and B, who had held similar mortgages of the concern and of the crop in those years to secure advances made by him, such advances had, with the mortgagee's knowledge, been supplemented by loans obtained from the plaintiffs on the security of a first charge upon the crop to the extent of such loans. And it was alleged by M that it was upon the understanding that the same course was to be followed in the present instance that the mortgage-deed to A and B was executed. The moneys advanced by the latter were wholly expended by April, when M, without communicating with A and B, and with only the verbal sanction of the Court, applied to the plaintiffs for money, and on the 26th April the plaintiffs wrote to M that they would make advances to the extent of Rs. 50,000 upon his assigning to them, and giving them a first charge on, the first 250 maunds of indigo to be manufactured in the season, and they enclosed a form of assign-

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ment for M's signature, which he duly signed, and returned to the plaintiffs on the 3rd May. This document bore a 2-rupee stamp. In September and October, M obtained further advances from the plaintiffs in respect of other indigo, giving them similar letters of assignment, which also bore 2-rupee stamps. Of the moneys thus advanced by the plaintiffs, Rs. 5,000 was paid to C for A and B by a bill drawn upon the plaintiffs, about Rs. 17,000 was applied towards the expenditure of the following season, and the remainder was applied in the production of the then season's indigo, and M stated that, without it, he could not have manufactured any indigo whatever that season. The indigo, when manufactured, was claimed by A and B under their mortgage, and their claim being resisted by M, who set up against them the plaintiffs' rights towards the letters of assignment, A and B brought a suit to enforce the provisions of their mortgage-deed. In this suit the indigo was attached before judgment, and sent to Calcutta for sale. The plaintiffs now sued A, B, M, and the holders for sale, to establish their first charge in respect of their advances to M upon 360 maunds of the indigo on the strength of their letters of assignment. *Held per* Garth, C J., and Macpherson, J., that the letters of assignment to the plaintiffs were not mortgages within the definition of the Stamp Act (XVIII. of 1869), and that the proper stamp to be affixed to such documents is a stamp of 8 annas. *Held per* Garth, C J., Phear and Macpherson, JJ., that the alleged oral agreement between C and M as to obtaining loans, if necessary, from the plaintiffs, and giving them a first charge on the season's indigo in respect of such loans, was in direct contravention and defeasance of the mortgage-deed to A and B, and was therefore inadmissible in evidence under s. 92 of the Evidence Act. *Held per* Phear, J., that s. 243, Act VIII. of 1859, does not give the Court authority to appoint a manager to carry on a judgment-debtor's business pending execution-proceedings, and to invest him with power to raise money for that purpose. *Quare*.—Whether the Civil Courts in the mofussil have the power possessed by the Court of Chancery in England and by the High Court in Calcutta of managing the property of parties to a cause pending suit or administration? But however this may be, the Court's manager, under such circumstances, only acquires a right to charge his costs and expenditure against the parties to the suit or persons who have knowingly placed themselves in a like position relative to his management, and even then he can only do so in respect of such expenditure as has been expressly sanctioned by the Court. *Held per* Garth,

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C.J., and Phear, J., that the plaintiffs were neither in the position of managers of the concern nor of consignees of the indigo, and were therefore not entitled to any lien upon the indigo similar to the lien possessed by the manager or the consignee of a West India estate. *Held per Phear, J.*, that the plaintiffs could not claim a lien on the indigo on grounds of a salvage character, it being essential to such a lien that the person spending the money of which he claims reimbursement should have some interest in the property, or some right or duty towards the owners who are to be affected by the claim, impelling him to make the expenditure. A mere volunteer can in general claim no such lien. *Held on the facts per Garth, C.J., and Phear and Macpherson, JJ.*, that there was not evidence of such knowledge and acquiescence on the part of A and B with respect to the advances by, and the assignments to, the plaintiffs as would estop them from disputing the plaintiff's claim.—*MORAN v. MITTU BIBER*, I. L. R., 2 Cal. 58.

Act XVIII. of 1869, s. 9.

Under Act XVIII. of 1869, s. 9, a one-anna stamp is the proper stamp for a document containing an account stated, and stipulating for payment of interest.—*GIRDHAR NARAN v. UMAR AJU*, I. L. R., 4 Bom. 326.

Act. XVIII. of 1869, s. 14; Sch. II., art. II.

When an instrument consisted of two parts, the first containing a promise to repay with interest a sum of Rs. 12-8, and the second a further promise to give a quantity of grain, *held* that, as an agreement, the instrument required a stamp of eight annas under s. 14 of Act XVIII. of 1869 and Sch. II., art. II; but that, as a simple money-bond, it was properly stamped with a stamp of two annas, and that, if the promisee abandoned his claim for grants, he could recover upon it the principal sum advanced with interest.—*CHIMMAJI v. RANU*, I. L. R., 4 Bom. 19.

Act. XVIII. of 1869, s. 15; Sch. II., art. 7.

A memorandum purporting that a sum of money has been received by a bank from a person, other than a constituent of such bank, to be credited to a constituent's account, and furnished by the bank for transmission to such constituent, is not a receipt or discharge given for, or upon payment of, money in satisfaction of a debt within the meaning of art. 7 of Act XVIII. of 1869, Sch. II., and is not chargeable with stamp-duty.—*IN THE MATTER OF THE UNCOVERED SERVICE BANK, LIMITED*, 3 C. L. R. 597.

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Act XVIII. of 1869, s. 18, Sch. I., art. 14; Sch. II., art. 36.

The plaintiff, as administrator of D, sued to recover from the defendants the sum of Rs. 3,000, alleging that in February 1878 the said sum had been entrusted to defendants Nos. 1 and 2 for investment on D's account, and had been advanced by them as a loan to defendant No. 3. The defendants alleged that the money was originally the property, not of D, but of the plaintiff himself; that he had made it over as a gift to his daughter P, by whom it had been lent to defendant No. 3; and that defendant No. 3 had duly repaid it to P. In the defendant's written statement, it was alleged that the gift to P had been made in the month of February 1878, and evidence to this effect was given at the trial. At the trial, however, the defendants also alleged that, in July 1878, the plaintiff had executed an instrument of gift of Rs. 3,000 to P, and they produced a document, dated 3rd July 1878, purporting to be signed by the plaintiff, whereby he made over Rs. 3,000 to P, of which Rs. 1,000 was to be held by P in trust for D during D's life, and to be paid back to plaintiff on D's death, and the remaining Rs. 2,000 were to be the property of P absolutely. When tendered in evidence, the document was objected to as being unstamped, and therefore inadmissible. *Held* that the document, though unstamped, was admissible in evidence, on the ground that the purpose for which it was tendered was collateral to the object of the document, and that its admission did not involve giving effect to it as operative between the parties to it.—*RUSTOMJI EDULJEE CROOS v. CURSETJEE SORABJEE CROOS*, I. L. R., 4 Bom. 349.

Act I. of 1869, Sch. II., arts. 5, 11: Act XVIII. of 1869, s. 20.

An Appellate Court has no authority to direct the reception of an unstamped document to which the provisions of s. 20 of the Stamp Act (XVIII. of 1869) apply, unless the amount of stamp-duty and prescribed penalty was tendered when the document was first offered in evidence, and rejected.—*CHAMPABATY v. BIBI JIBUN*, I. L. R., 4 Cal. 213.

Act XVIII. of 1869, ss. 5, 8, 19.

Insufficiently-stamped hundis cannot be received in evidence, even on payment of a penalty under s. 20 of Act XVIII. of 1869, —*MOTHOORA MOHUN ROY v. PEARY MOHUN SHAW*, I. L. R., 4 Cal. 259; 2 C. L. R. 409.

Act. XVIII. of 1869, s. 28.

A document which contains a promise to pay money and a certain quantity of grain

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is not a promissory note for the purpose of the General Stamp Act, 1869, s. 28. The defendants and two others jointly executed a document (A) whereby they promised, on the 27th April 1874, to pay to the plaintiff Rs. 25 at the end of April 1875, and also to give to the plaintiff, in April 1875, a certain quantity of grain by way of interest. *Held* (Kernan, J., dissenting) that the suit was not barred by the dismissal of a suit in 1877 in which the plaintiff sued the defendants for a proportionate amount due by them under the document (A), alleging a verbal promise by the defendants in November 1876 to pay such proportionate amount. — *MUTTU CHETTI v. MUTTAN CHETTI*, I. L. R., 4 Mad. 296.

Act I. of 1879, s. 34.

An instrument 'which comes within the definition of a promissory note in the General Stamp Act, 1869, and is not duly stamped according to that Act (which was in force at the date of its execution), cannot be admitted in evidence upon payment of penalty under s. 34 of the Stamp Act, 1879, on the ground that it falls within the definition of a bond in the latter Act. The levy of a penalty authorized under prov. 1 of s. 34 of the Stamp Act, 1879, implies a punishment for neglect in failing to affix the proper stamp at the time of execution. The word "chargeable" in the above proviso means chargeable under the Act in force at the date of the execution of the instrument. — *NARAYANAN CHETTI v. KARUPPATHAN*, I. L. R., 3 Mad. 251.

Act XVIII. of 1869, ss. 34, 41; Sch. II., cls. 5, 20.

A policy of insurance bore three endorsements—the first, an assignment of all the right, title, and interest of the assured to the P Bank; the second, a re-transfer from the P Bank to the assured, all claims having been satisfied; the third, an assignment by the assured, similar to the first assignment, to Messrs. B R S and Company. *Held* by Markby and Ainslie, JJ., that the first and third endorsements were liable, as collateral instruments under Sch. II., cl. 20, of the General Stamp Act, to a stamp of one rupee, and that the second endorsement was not chargeable with stamp-duty. *Held* by Garth, C.J., that none of the endorsements were chargeable with duty. — *IN THE MATTER OF THOMSON'S POLICY*, I. L. R., 3 Cal. 347.

Act XVIII. of 1869, ss. 39, 40.

A promissory note, not payable on demand, executed on unstamped paper, was brought to a Collector, under s. 39 of Act XVIII. of 1869, for adjudication as to the

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proper stamp, who, upon the payments provided in that section having been made, made the endorsement thereon provided in that section. *Held* that the irregularity of the Collector in making such endorsement did not render such promissory note inadmissible in evidence. — *GRIDHARI DAS v. JAGAN NATH*, I. L. R., 3 All. 115.

Act XVIII. of 1869, Sch. II., cl. 5.

An adjustment of account is not admissible in evidence, unless stamped with a 1-anna stamp. — *TARINEY CHURN NUNDY v. ABDUR ROHOMAN*, 2 C. L. R. 346.

Act XVIII. of 1869, Sch. II., art. 5.

When an account in a hatchitta has two sides to it, the one headed 'amount advanced,' and the other headed 'amount received,' and the amount actually due on such account varies from time to time, and depends upon the relation of the amount advanced to the amount received, and the signature or seal of the borrower is affixed to each entry showing an advance, such an entry is not a note or memorandum whereby any debt is acknowledged to be due, and does not require a stamp under art. 5, Sch. II. of Act XVIII. of 1869. — *BROJENDER COOMAR v. BROMOMOYE CHOWDHURI*, I. L. R., 4 Cal. 885; 3 C. L. R. 520.

Act XVIII. of 1869, Sch. II., cl. 7.

A bank-memorandum, informing one of their customers that money has been paid to his account by a third person, and has been credited to that account, does not require to be stamped under art. 7, Sch. II. of Act XVIII. of 1869. — *IN THE MATTER OF ACT XVIII. OF 1869 AND OF THE UNCOVENANTED SERVICE BANK, LIMITED*, I. L. R., 4 Cal. 829; 3 C. L. R. 597.

Act XVIII. of 1869, Sch. II., art. 11.

A postscript to a document contained a stipulation that the defendant should return two promissory notes deposited with him when a certain house was given back to him in good order. *Held* that the document required a stamp of eight annas under Act XVIII. of 1869, Sch. II., art. 11. — *MOTILAL v. MUNSHOOK KURAMCHAND*, I. L. R., 4 Bom. 328.

Act I. of 1879, Sch. II., art. 11.

A letter, reciting a request for a loan, calling on the addressee to pay the amount to the bearer of the letter, and continuing, "This sum I shall repay with interest . . . and get back this letter: I request you will not neglect to pay the amount on the strength of this letter," is a promissory note, and not a mere proposal for a loan. — *CHANNAMMA v. AYYANNA*, I. L. R., 16 Mad. 283.

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Act XVIII. of 1869, s. 20; Sch. II., arts. 2, 5.

An account in a hathchitta showing advances of money made to, and part-payment made by, the defendant, the whole amount being in the handwriting of, and signed by, the defendant, is admissible in evidence without being stamped. *Brojendro Coomar v. Bromomoye Chowdhraim* (I. L. R., 4 Cal 885; 3 C. L. R. 520) followed.—*Brojo Gobind SHAHA v. GOLUCK CHUNDER SHAHA alias GOLUCK SHAHA*, I. L. R., 9 Cal. 127.

Act I. of 1879, Sch. II., art. 11.

V R drew a hundi in favour of M K upon M and Co., who, upon presentation, paid part of the amount due, and referred the payee to the drawer for the balance. M K sued V R to recover the balance. V R pleaded that the hundi was inadmissible in evidence, not being properly stamped, alleging that it had been issued with a slip attached to the effect that it was payable ten days after sight, and this slip had been removed, making it appear to be payable on demand. The Munsif found this plea to be proved, but held that, V R having admitted the grant of the hundi, M K might recover upon the original consideration without using the hundi in evidence, and decreed for M K. V R appealed, but not on the ground that the hundi was inadmissible in evidence as being improperly stamped and altered in a material part. The District Court confirmed the Munsif's decree. *Held*, on second appeal, that the suit must be dismissed on the ground that it was based upon the hundi, which was inadmissible in evidence, being insufficiently stamped.—*VALIAPPA v. MAHOMMED KHASIM*, I. L. R., 5 Mad. 166.

Mad. Reg. XIII. of 1816.

Suit to redeem a mortgage of 1833, executed upon an unstamped cadjan, liable to stamp-duty under Mad. Reg. XIII. of 1816. Secondary evidence of the contents of this document was tendered on payment of a penalty. *Held* that the evidence could not be admitted.—*KOPASAN v. SHAMU*, I. L. R., 7 Mad. 440.

Act I., 1879, s. 49; Sch. II., art. 10.

An award directing partition of property, if signed by the parties interested by way of assent to the award, becomes thereby an instrument of partition, and should be stamped accordingly.—*AMARSI v. DAYAL*, I. L. R., 9 Bom. 50.

Act I. of 1879, ss. 7, 49.

J and S passed to their brother E an instrument which set forth (1) that J and S relinquished their right to certain property in favour of E; (2) that E was to discharge

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certain debts; and (3) that E was to pay to J and S an annuity. *Held* that the provisions in favour of J and S were a mere recital of the consideration moving from E; that no interest was created in favour of J and S; and that, therefore, the instrument should be stamped as a release only.—*EKNATH S. GOWNDE v. JAGANNATH S. GOWNDE*, I. L. R., 9 Bom. 417.

Act I. of 1879, Sch. I., arts. 16 to 21.

Mortgages in the proclamation of sale as claims noted upon the property sold should not be entered in the certificate of sale, or be computed as part of the purchase-money, unless they have been admitted by the parties, or established by decree, or unless they have been declared, under s. 282 of the Civil Procedure Code, to be charges on the property, and the Court has seen fit to sell it subject to them; but they should be entered in the certificate, and computed as part of the purchase money if they have been thus admitted or established, or if they have been declared under s. 282 of the Civil Procedure Code, and the sale has been held subject to them. Claims admitted by parties, or established by the decree of a Court, should be entered in the proclamation of sale as charges upon the property, though they have come to the knowledge of the Court in an enquiry under s. 287 only, and have not been made the subject of an order under s. 287 of the Civil Procedure Code.—*SHANTAPPA CHEDAMBARAYA v. SUBRAO RAMCHANDRA YELLAPUR*, I. L. R., 18 Bom. 175.

Act I. of 1879, s. 2 (13); Sch. I., arts. 5 (c), 25.

An agreement was made between certain persons to transfer the future surplus profits of their respective trades to a trustee in order that the trustee should hold the fund so to be created on certain trusts declared in the agreement. *Held* that the agreement was liable to stamp-duty as a declaration of trust under the Indian Stamp Act, 1879, Sch. I., art. 25, and as an agreement under art 5 (c). *Held* also that the fund intended to be created under the agreement was not "specified property" within the meaning of s. 2 (13) of the said Act.—*REFERENCE UNDER STAMP ACT*, s. 46 I. L. R., 11 Mad. 216.

Act I. of 1879, Sch. I., arts. 29, 44 (b).

In consideration of an advance of Rs. 1,450, on interest, repayable on demand, certain boat-owners assigned to S & Co. their paddy-boats, the boat-owners retaining, working, and being responsible for the safety of, the boats and agreeing so long as the sum advanced with interest should remain unpaid, to use their boats for the

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sole purpose of supplying paddy to S & Co., and to deliver such paddy (which was to be paid for at the market-rate) at the end of each trip as directed by S & Co. On failure to make repayment on demand, S & Co. were empowered to take possession and to sell the boats. *Held* that the document was a mortgage, and not a pledge, and as such should be stamped under art. 44 (b) of Sch. I. of the Stamp Act of 1879.—*IN THE MATTER OF KO SHWAY AUNG v. STRANG, STEEL, AND CO*, I. L. R., 21 Cal. 241.

Act I. of 1879, ss. 3, 49.

R executed a document, by which he promised to pay on demand Rs. 10-12-0 with interest to S R. The writer of the document and some others signed the document as witnesses. *Held* that the document was a bond, and liable to stamp-duty as such.—*REFERENCE UNDER STAMP ACT*, s. 49, I. L. R., 13 Mad. 147.

Act I. of 1879, s. 3; Sch. II., art. 13.

A company agreed to pay £220,000 in five instalments for the cost of constructing a railway on the terms, among others, that debentures on the railway should be handed over to the company on each payment being made, and that, in the event of the other party failing to perform his liabilities as to the construction of the railway, the company should be entitled to sell the debentures, and also to recover damages, and also to discontinue payments of the above instalments. It was also provided that the company should be at liberty to retain £40,000 as compensation for risk, expenses, &c. The agreement was sealed with the seal of the company in the presence of two Directors and the Secretary. *Held* that the instrument was liable to stamp-duty as a bond for £220,000 under Act I. of 1879.—*REFERENCE UNDER STAMP ACT*, s. 46, I. L. R., 15 Mad. 193.

Act I. of 1879, s. 3, cl. 4.

The defendant signed an agreement in England with a railway company, whereby he contracted to serve the company exclusively for four years in India under a penalty of £100. The defendant, having come to India at the expense of the company, and served it for two years, left its service for that of another employer, alleging that he had not been fairly treated by a locomotive superintendent. *Held* (1) that the instrument executed by the defendant was an agreement merely, and did not require to be stamped as a bond; (2) that the defendant had no right to rescind the agreement, and the plaintiff company was entitled to an interlocutory injunction restraining defendant from serving others on the terms that the plaintiff company should consent to retain

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him in its employ. — *MADRAS RAILWAY COMPANY v. RUST*, I. L. R., 14 Mad. 18.

Act I. of 1879, s. 3, cl. 4 (b).

A executed a document by which he promised to pay on demand Rs. 16 to B. The writer of the document signed the document as writer for the purpose of attesting A's signature. *Held* that the document was liable to stamp-duty as a bond.—*REFERENCE UNDER STAMP ACT*, s. 49, I. L. R., 10 Mad. 158.

Act I. of 1879, s. 3, cl. 4 (b).

An attested instrument, in which the obligor states that he borrowed a certain quantity of grain from the obligee, and agreed to repay it at a future time in greater quantity, is a bond within the meaning of s. 3 (4) b of Act I. of 1879, although the instrument is silent as to the money-value of the grain. Where the value of such an instrument was ascertained to be less than Rs. 10, it was held to be properly stamped as a bond with a stamp of annas 2.—*MAGANDAS KHEMCHAND v. RAMCHANDRA HIRAJI*, I. L. R., 7 Bom. 137.

Act I. of 1879, s. 3, cl. 4 (b).

A *khata* in the name of a debtor acknowledging the receipt of the amount advanced, and bearing the signature of the writer of the *khata* as writer of it merely, *held* to be an acknowledgment only, and not a bond, within the meaning of s. 3, cl. 4 (b), of the Stamp Act (I. of 1879).—*DULABH VANMALI v. REHMAN JAMAL*, I. L. R., 14 Bom. 511.

Act I. of 1879, ss. 3, cl. (4), 7, and Sch. I., No. 5 (c).

One of the clauses of an instrument by which one party to the instrument bound himself, in the event of a breach on his part of any of the conditions of the instrument, to pay the other party thereto a penalty of Rs. 5,000, being regarded as a bond within the meaning of Act I. of 1879, such instrument, if that clause were not so regarded, being an agreement chargeable under that Act with a stamp-duty of eight annas, *held* (Stuart, C.J., dissenting) that the instrument was chargeable, under s. 7 of that Act, with the stamp-duty leviable on a bond for Rs. 5,000. *Per* Stuart, C.J.—That, for the purposes of that Act, the penal clause in the instrument should not be regarded separately as a bond, but simply as one of the several clauses making up the entire agreement, and the instrument was only chargeable with a stamp-duty of eight annas.—*REFERENCE BY BOARD OF REVENUE*, I. L. R., 2 All. 654.

Act I. of 1879, s. 3, subs. 4c, 13, ss. 7, 26, Sch. I., Nos. 13, 44.

A grower of sugarcane executed a deed whereby he borrowed a sum of Rs. 25 as

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"earnest-money," and covenanted to deliver to the lender on a certain date 21 maunds of *rab* (unrefined sugar), upon which he was to receive a profit of 9 annas per maund over and above a price to be thereafter fixed at a meeting of growers. He further covenanted as follows: "If the supply of the *rab* be less than the fixed quantity, and the money still remains due, then the said money thus due, including the profits, shall be paid at the rate of Re. 1 per maund; that, in case of my not supplying the *rab* at all, or selling it at some other place, I will pay the whole amount at once, including the said profits." As collateral security, he hypothecated the produce of a field of sugarcane, the value of which was not stated. *Held* by the Full Bench that the instrument was a "mortgage-deed" within the meaning of s. 3(13) and No. 44 (b) of Sch. I. of the Stamp Act (I. of 1879). *Held* by Stuart, C.J., Straight, J., and Brodhurst, J., that it was also a "bond" within the meaning of s. 3 (4) (c) and No. 13 of Sch. I., and, with reference to the provisions of s. 7, was chargeable with stamp-duty solely as a bond under No. 13, the contract being a single one. *Held* by the Full Bench that the proper stamp-duty payable on the instrument was four annas. *Held* by Stuart, C.J., and Straight, J., that, in estimating the stamp-duty payable on the instrument, the amount stipulated to be paid by way of penalty in case of breach of the covenant to deliver the *rab* must not be taken into account. *Reference by Board of Revenue, North-Western Provinces* (I. L. R., 2 All. 654) doubted, and *Gisborne v. Subal Bowri* (I. L. R., 8 Cal. 284) referred to by Straight, J. *Per* Stuart, C.J., that, for the purpose of estimating the stamp-duty, the amount secured by the instrument was Rs. 25, the amount borrowed, *plus* Rs. 11-3, the amount to be paid to the borrower on the 21 maunds at 9 annas per maund, and that the additional profit, *i. e.*, the price fixed at the meeting of growers, not having been ascertainable at the time of execution, fell within the provisions of s. 26 of the Stamp Act, and could not have the effect of adding to the stamp-duty. *Per* Oldfield, J., that the amount secured or limited to be ultimately recoverable under the instrument was Rs. 25, the amount borrowed, *plus* Rs. 21, the sum recoverable at Re. 1 per maund in the event of the borrower's non-delivery of the 21 maunds, and stamp-duty was payable on this amount.—IN THE MATTER OF GAJRAJ SINGH, I. L. R., 9 All. 585.

Act I. of 1879.

A document is not a promissory note if it does not contain an express promise to pay.—GOVIND *v.* BALWANTRAO, I. L. R., 22 Bom. 986.

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Act I. of 1879, s. 3, sub-s. 4, cl. b, prov. 1 and 3, s. 50.

Where the Court of first instance has, on payment of the prescribed duty and penalty, admitted an unstamped document as evidence under s. 3, prov. 1 of Act I. of 1879, a superior Court sitting in appeal has no jurisdiction to review the lower Court's proceedings, in so far as they concern such admission, except in the case provided for by s. 50 of that Act. — PUNCHANUND DASS CHOWDHRY *v.* TARAMONI CHOWDHRAIN, I. L. R., 12 Cal. 64.

Act I. of 1879, s. 3 (9).

Where three executors of a will purported to convey by deed to one of them, in consideration of a sum of Rs. 10, a house to which the latter was entitled under the will, *held* that the deed, having been drawn in the form of a conveyance, was liable to stamp-duty as such.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 350.

Act I. of 1879, s. 3 (9), Sch. I., arts. 5, 21; Sch. II., art. 2.

A document bearing a stamp of one rupee stated (*inter alia*) "I have sold to you the standing trees of the villages for Rs. 1,601 on condition that those young trees, whose trunks do not exceed two feet in circumference, should not be cut by you, and that I will give you written information to cut the trees of the said villages when you shall have to cut the trees and remove them within two years," &c. *Held* that the document was sufficiently stamped.—VOHRA MAHAMADALI *v.* RAMCHANDRA, I. L. R., 22 Bom. 785.

Act I. of 1879, s. 3, cls. 9, 11, 19.

By a deed of family-arrangement, one brother conveyed a pargana and the sum of two and-a-half lakhs of rupees to a younger brother on condition that the latter should release certain family-property on which he had claims. *Held* that the deed was neither a conveyance or a settlement, nor an instrument of partition, within the meaning of Act I. of 1879.—IN THE MATTER OF THE MAHARAJAH OF DURBHUNGAH, I. L. R., 7 Cal. 29.

Act I. of 1879, s. 3, cl. 10.

Of the rules dated 3rd March 1882, issued by the Governor-General in Council, under ss. 9, 15, 17, 32, 51, and 56 of the Indian Stamp Act, 1879, rule 5 (e) requires that the part of an instrument which is written on plain sheets of paper attached to the stamp-paper must be attested by the parties executing, and by the witnesses to the document. *Held* by Kernan, Muttusami Ayyar, and Brandt, JJ. (Turner, C.J., dissenting), that

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the rule is *ultra vires* and inoperative for the purpose of declaring an instrument, written contrary to the provisions thereof, unduly stamped within the meaning of s. 3 (10) of the Act. *Per* Turner, C. J.—An instrument not written in accordance with the directions in rule 5 (e) is not duly stamped.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 8 Mad. 532.

Act I. of 1879, ss. 3, cl. (10), 9, 33, 34.

The effect of Notification No. 2955 of the 1st December 1882, amending the rules made by the Governor-General in Council under s. 9 of the Stamp Act (I. of 1879), and published in Notification No. 1288 of the 3rd March 1882, is not to prohibit all promissory notes, except those chargeable with a duty of 6, 10, or 12 annas, being written on impressed sheets bearing the word *hundi*. A rule which says that certain promissory notes shall be written on impressed sheets bearing the word *hundi* cannot be interpreted as enacting that other promissory notes shall not be written on impressed paper of the proper value if it happens to bear the word *hundi*. A promissory note for an amount not exceeding Rs. 200, payable otherwise than on demand, but not more than one year after date, and requiring a stamp of two annas, is duly stamped if written on an impressed sheet of the value of two annas, though that impressed sheet bears the word *hundi*.—RADHA BAI v. NATHU RAM, I. L. R., 13 All. 66.

Act I. of 1879, ss. 5, 3, cl. (10), 10, 11, 34, Sch. I., art. 11.

The words 'duly stamped' in s. 3 of the Stamp Act signify "stamped or written upon paper bearing an impressed stamp." A bill of exchange for Rs. 500, payable otherwise than on demand, must, under art. 11 of Sch. I. of the Act, be stamped with an impressed stamp of the value of six annas.—RADHAKANT SHAHA v. ABHOYCHURN MITTER, I. L. R., 8 Cal. 721: s. C., RADHAKANT SHUBA v. ABHOYCHURN MITTER, 11 C. L. R. 310.

Act I. of 1879, ss. 3 (10), 55, 57.

The omission of a stamp-vendor to endorse on a stamped paper the particulars required by rule 9 of the revised rules published under ss. 55 and 57 of the Indian Stamp Act, 1879, by the Government of Madras, with the approval of the Governor-General in Council, does not render a document "not duly stamped" within the meaning of s. 3 (10) of the Indian Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 11 Mad. 377.

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Act I. of 1879, ss. 3 (10) 57 61;

In exercise of the powers conferred by ss. 9, 15, 17, 32, 51, and 56 of the Stamp Act, 1879, the Governor-General in Council made, and published by a notification dated the 3rd March 1882, certain rules, and, *inter alia*, Rule 5 (e), which was as follows: "When a single sheet used under this rule is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument, provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet. Provided further that the part of the instrument written on the plain paper must be attested by the signatures or marks of all the persons executing the document and the witnesses to the same." *Held* that this rule was an enabling rule, and did not make it obligatory on parties not to write on the reverse side of an impressed stamp-paper.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 176.

Act I. of 1879, s. 3 (11).

In a document signed by the members of a Hindu family, and attested by witnesses, which purported to be an account or list of the share of one member of the family in the family-property, it was recited that the parents of the family were to enjoy certain lands, and that the outstanding debts should be divided at a future date. *Held* that this document was not liable to stamp-duty as a partition-deed.—REFERENCE UNDER STAMP ACT, s. 49, I. L. R., 7 Mad. 385.

Act I. of 1879, s. 3, cl. 11.

Persons incorrectly purporting to be co-owners of certain property agreed to divide it in severalty by written documents. *Held* that the arrangement fell within the definition of "instrument of partition" in the Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 12 Mad. 198.

Act I. of 1879, s. 3 (11).

The co-sharers in an undivided Hindu family having, under a written instrument, agreed to divide the family-property according to the terms of the award passed by the arbitrators, *held* that the instrument was an agreement to divide the property in severalty, and was, therefore, a partition-deed within the definition in cl. 11 of s. 3 of the General Stamp Act (I. of 1879).—*In re* VASANJI HARIBHAI, I. L. R., 15 Bom. 677.

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Act I. of 1879, s. 3 (11), s. 20 (e).

Three out of seven brothers, constituting an undivided Hindu family, executed documents, whereby each acknowledged the receipt of certain property made over to him, "a division of family-property having been effected," and acknowledged himself liable for one-seventh of the debts of the family. One of the documents contained a clause to the effect that the executant had no further claim on property of the family. *Held* that the documents should be stamped as instruments of partition, each member paying according to the share taken by him under the partition.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 15 Mad. 164.

Act I. of 1879, s. 3 (11), s. 29, Sch. I., No 37.

Held that the words, "the final order," used in the definition of an "instrument of partition" in Act I. of 1879, mean, not the order authorizing a partition to proceed, but the order passed after the partition has been made, declaring the various allotments of land. Also that the stamp-duty chargeable under that Act on an instrument of partition is chargeable in respect of the entire property sought to be divided, and not merely in respect of that portion of it allotted to the applicant for partition. Also that, for the purposes of that Act, the value of the property is to be computed with reference to its market-value, and not with reference to the Court Fees Act, 1870.—REFERENCE BY BOARD OF REVENUE, I. L. R., 2 All. 664.

Stamp Act—Act I. of 1879, s. 3, cls. (12), (13).

An instrument, therein described as a lease, was executed in consideration of one hundred and twenty rupees, and it provided that the party paying that sum should remain in possession of certain land for twelve years, but contained no provision for repayment of that sum or for the payment of rent: *Held* that the instrument was a usufructuary mortgage, and not a lease.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 21 Mad. 358.

Act I. of 1879, s. 3, cl. 13.

An agreement entered into by the Secretary of State and a salt contractor recited that the contractor has deposited certain promissory notes to secure the due fulfilment of the contract, and provided that the promissory notes should be returned on the due fulfilment of the contract. *Held* that the agreement was a mortgage as defined by the Stamp Act.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 11 Mad. 39.

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Act I. of 1879, s. 3, cl. 16, s. 7, Sch. I., art. 50 (e).

Ten mirasidars of a village executed an instrument authorizing the person therein mentioned to recover for them, from their former agent, the perquisites and other communal income appertaining to their mirasi rights, to cultivate their maniams, to distribute to them proportionately to their shares the profits of certain common land, &c. *Held* that the instrument was a power-of-attorney, and should bear a stamp of Rs. 5.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 15 Mad. 386.

Act I. of 1879, s. 3 (17), Sch. II., art. 15 (b).

A receipt given by a barrister for a fee is exempted from stamp-duty by art. 15 (b) of Sch. II. of the Indian Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 9 Mad. 140.

Stamp Act—Act I. of 1879, s. 3 (9), (19).

An instrument whereby a life-interest in land is created with remainder to the settlor and his heirs is a settlement within the meaning of the Stamp Act. A transfer of land, in pursuance of a compromise of a widow's suit for maintenance, is a conveyance, and must be stamped accordingly.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 21 Mad. 422.

Act I. of 1879, s. 3, cl. 19 (b).

The word "settlement" as defined in s. 3 of the Stamp Act suggests the creation of a separate interest in favour of several persons who may have a legal or moral claim on the settlor, or for whom he may desire to make a provision. *Held* therefore that, where, because of natural affection, a person bestowed upon his sister and her son certain land, the document was liable to stamp-duty as a gift, and not as a settlement.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 349.

Act I. of 1879, ss. 3, cl. (15), 25 (c), Sch. I., art. 49.

An entrance certificate granted under the rules of the Uncovenanted Service Family Pension Fund is a life-policy within s. 3 (15) of the Stamp Act for an amount not exceeding Rs. 1,000, and is therefore chargeable with a duty of 6 annas. Such an instrument is not within the scope of s. 25 (c) of the Stamp Act.—REFERENCE UNDER STAMP ACT, 1879, s. 46, I. L. R., 19 Cal. 499.

Act I. of 1879, ss. 3, 31, 51.

Allowance for spoiled stamps may be made under s. 51 of the Stamp Act when a stamped instrument has been endorsed

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by the Collector under s. 31. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 11 Mad. 37.

Act I. of 1879, s. 4 (c), Sch. I., art. 5.

A petition, stamped as an agreement, having been presented to a District Court by the parties to a suit informing the Court that they had entered into an agreement, whereby, *inter alia*, the defendant was bound to deliver to the plaintiff certain wood, and requesting that the suit might be removed from the file, the District Judge impounded it, levied a sum for insufficient stamp-duty and a penalty on the ground that it was a bond, and forwarded it to the Collector. Upon a reference made by the Board of Revenue at the instance of the Collector, *held* that the duty leviable was a court-fee stamp under art. 1 (b) of Sch. II. of the Court Fees Act, 1870. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 8 Mad. 15.

Act I. of 1879, ss. 5, 3 (10), 10, 11, 34.

A bill of exchange not payable on demand must be duly stamped under art. 11 of Sch. I. of Act I. of 1879 with an impressed stamp of the value of six annas. — RADHA KANT SHUBA v. ABHOY CHURN MITTER, 11 C. L. R. 310.

Act I. of 1879, ss. 5, 14, 35, 37, 39.

A deed of release was endorsed on a deed of conveyance for Rs. 100. The conveyance bore an impressed stamp for one rupee but the endorsement was unstamped. *Held* that the conveyance was valid, and that the release could be validated on payment of the deficient stamp-duty and the penalty under s. 39 of the Stamp Act. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 11 Mad. 40.

Act I. of 1879, ss. 6, 13, Sch. I., art. 30.

The document marked A was a document on a three-rupee stamp-paper executed by Hanmapa to one Venkatidas, purporting to convey to him certain immoveable property absolutely for the consideration of Rs. 275. On the same deed of sale, Ramapa, the undivided nephew of the executant, endorsed his consent to the sale. *Held* that the endorsement of consent and the conveyance were several instruments employed to complete a transaction within the contemplation of s. 6 of the Stamp Act (I. of 1879), and the consent ought to have been written on a separate stamp-paper of the value of one rupee. The document B was a document on a ten-rupee stamp-paper executed by the executant Mallapa to one Devapa, whereby Mallapa, after reciting the fact of his having adopted Devapa, constituted him the heir to his interest in the undivided family

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property, and declared him to be the sole owner thereof as the executant's adopted son. On the same document, Balva, the mother of Devapa, and his father Parmesh-varapa, endorsed separately their consent to the adoption. *Held* that B itself was not an instrument conferring an authority to adopt, and therefore not chargeable under art. 38 of Sch. I. of Act I. of 1879, or under any other article. The endorsements, therefore, were not chargeable with any stamp-duty. — IN THE MATTER OF HANMAPA, I. L. R., 13 Bom. 281.

Act I. of 1879, s. 7.

Sixteen persons borrowed a quantity of rice from the plaintiff, and executed to him a bond for the debt, showing how much rice had been borrowed by each of them. They did not bind themselves to repay the entire debt jointly and severally. *Held* that the instrument should be regarded as comprising sixteen distinct contracts, so as to fall within the purview of s. 7 of the Stamp Act (I. of 1879), and should be stamped accordingly. — SHAUDIN MAHOMED v. HIRNAK RAJNAK, I. L. R., 10 Bom 47.

Act I. of 1879, s. 3, cls. (12)
(13), s. 7, p. 2.

By an instrument which recited that A was indebted to B in the sum of two lakhs of rupees, and that A had taken a fresh loan of Rs. 2,59,000 from B, the former leased certain mauzas to the latter, for a term of twenty years, at a yearly rental of Rs. 1,40,000. It was provided that, from the rent of each year, a portion should be deducted in payment of A's debt to B, so that in this way the whole debt should be paid by a series of instalments extending over the term of the lease. The instrument also contained the usual clauses found in pattas. On the question what was the proper amount of stamp-duty leviable on the document, *held* that, though the arrangement intended to be effected was partly a lease and partly an usufructuary mortgage, yet the instrument came within the provisions of s. 7, para. 2, of the Stamp Act. and should be stamped as a mortgage only. — IN THE MATTER OF A REFERENCE FROM THE BOARD OF REVENUE UNDER S. 46 OF THE GENERAL STAMP ACT: *Ex-parte* HILL, I. L. R., 8 Cal. 254; 10 C. L. R. 33.

Act I. of 1879, ss. 7, 12, 13, 14.

In a bond engrossed on a stamp-paper of sufficient value, and dated the 19th April 1879, the contract of the principal was written first, and after his signature followed the contract of the surety, signed by the latter. The document commenced on the

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side other than that on which the stamp was impressed, and terminated on the side impressed with the stamp. The stamp was not in any way defaced, nor was the paper so written as to admit of the stamp being used again. *Held* that the bond constituted only one instrument, and was properly stamped, not being open to objection under ss. 7, 12, 13, and 14 of the Stamp Act (I. of 1879). The construction of the words, "on the face of the instrument," used in s. 12 of Act I. of 1879, considered. *Quare*.—Whether certain Government notifications—to the effect that an instrument, commenced on the side of the paper other than that on which the stamp is impressed, and completed on the side on which the stamp is impressed, is, under s. 12 of Act I. of 1879, to be treated as unstamped; and prohibiting writing on the reverse of an impressed stamped paper—are *ultra vires*, as being more stringent than, and therefore inconsistent with, that Act.—*DOWLATRAM HARJI v. VITHO RADHOJI*, I. L. R., 5 Bom. 188.

Act I. of 1879, ss. 9, 33, 34, Rule 6.

In a suit on a promissory note for Rs. 4,300, which was executed on an impressed sheet bearing an impressed stamp with the word "hundi" at the top, and the words "three rupees" at the bottom, of the impression, *held*, on its appearing that the instrument was correctly stamped as to the amount of duty, that the instrument was admissible in evidence.—*BANK OF MADRAS v. SUBBARAYALU*, I. L. R., 14 Mad. 32.

Act I. of 1879, s. 13.

A bond stipulated that, for the consideration of a loan of Rs. 80, the debtor should deliver to the creditor on a future day "800 arris of grain, valued at Rs. 10 per 100 arris." The bond was engrossed on an 8-anna stamp-paper. In a suit on the bond for the recovery of 800 arris at 4 arris per rupee or its price, Rs. 200, *held* that the bond was adequately stamped.—*BHAIRAB CHUNDRA CHOWDHRI v. ALEX JAN*, I. L. R., 13 Cal. 268.

Act I. of 1879, ss. 16, 34.

A receipt (dated 1887) stamped subsequently to execution, but before production in Court, was tendered in evidence. *Held*, the document was inadmissible. S. 34 of Act I. of 1879 requires instruments chargeable with duty to be 'duly stamped,' which, in this case, meant 'stamped before or at the time of execution,' as laid down by s. 16 of the Act.—*JETHIBAI v. RAMCHANDRA NAROTTAM*, I. L. R., 13 Bom. 484.

Act I. of 1879, ss. 17, 33, 37 (b).

A document comprising an assignment of the executant's interest under a will, and

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also a power-of-attorney, was executed on 26th May 1862 in Australia. It was sought in 1890 to use the document in Madras, but it was not stamped. *Held* that no penalty could be levied upon it under the Stamp Act of 1879.—*REFERENCE UNDER STAMP ACT*, s. 46, I. L. R., 14 Mad. 255.

Act I. of 1879, s. 24.

Where property is sold subject to a mortgage or other charge, the payment of such mortgage or charge forms, under ordinary circumstances, no part of the consideration-money for the purchase. The stamp-duty payable on a document conveying such a property is an *ad-valorem* duty on the amount of the money paid as consideration for the sale.—*IN THE MATTER OF ACT I. OF 1879, AND IN THE MATTER OF A REFERENCE TO THE BOARD OF REVENUE*, I. L. R., 10 Cal. 92; 13 C. L. R. 164.

Act I. of 1879, s. 24.

Where, under an instrument, a mortgagor relinquished his title to the mortgaged property in favour of the mortgagee, and also agreed to pay the Government assessment until the transfer of the land to the name of the mortgagee-purchaser in the Collector's books, *held* that such an instrument was a conveyance, of which the amount of the consideration, calculated according to s. 24 of the General Stamp Act (I. of 1879), was the original mortgage-amount, *plus* the amount mentioned in the instrument. *Held* also that the instrument was an agreement to pay assessment until the land conveyed was transferred in the Collector's books, and, as such, should bear the additional stamp for an agreement, namely, annas eight.—*SINAPAYA v. SHIVAPA*, I. L. R., 15 Bom. 675.

Act I. of 1879, s. 24, Sch. I., art. 16.

The stamp-duty payable on a certificate of sale is governed, not by s. 24, but by cl. 16, Sch. I. of the Stamp Act, 1879. *Semble*.—That, when property is merely sold subject to a mortgage, it is not sold "subject to the payment" of the mortgage-debt within the meaning of s. 24 of that Act.—*REFERENCE UNDER STAMP ACT*, s. 49, I. L. R., 5 Mad. 18.

Act I. of 1879, s. 26; Act of 1869, s. 11.

An engagement by a proprietor of land to pay to a superior a sum of money in consideration of a grant of the right to farm-dues in the nature of revenue is a 'lease' within the meaning of the General Stamp Act 1869. When the amount of rent payable for the first year cannot be ascertained in order to determine the proper stamp, under Sch. I, s. 19 (b), of the General Stamp

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Act, 1869, for a lease, and more rent is recovered than the stamp affixed warrants, the right to recover the rent due for the subsequent years is not affected. In such a case, sufficient effect is given to s. 26 of the Stamp Act, 1879, by limiting the amount recoverable for the first year to the amount which the stamp will cover.—COLLECTOR OF TANJORE *v.* RAMASAMIER, I. L. R., 3 Mad. 342.

Act I. of 1879, ss. 33, 34, 35, 37 (a), (b), 45, 50.

The decision of the Collector under clause (b) of s. 37 of the Indian Stamp Act (I. of 1879), that a particular instrument is chargeable with duty and is not duly stamped, is not final and conclusive. If his decision under that clause is not obeyed, and the duty and penalty are not paid, any Civil Court before which the document may come has the duty cast upon it under s. 33 of examining it and of determining for itself whether it is duly stamped or not, and, if not, of taking the steps laid down in ss. 33, 34, and 35, that decision being subject to revision under s. 50.—HARIBAI *v.* KRISHNARAO, I. L. R., 22 Bom. 632.

Act I. of 1879, ss. 34, 50.

Where a document has been admitted in evidence as duly stamped, such admission can only be called in question by the Appellate Court under s. 50 of the Indian Stamp Act.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 8 Mad. 564.

Act I. of 1879, s. 34, cl. 3.

Where a Court of first instance has admitted a document in evidence as duly stamped, s. 34, cl. 3, of the Stamp Act (I. of 1879) precludes the Appellate Court from questioning the admission of such document. If the Appellate Court considers the document to be sufficiently stamped, it can only proceed under s. 50 of the Act. S. 34 of Act I. of 1879 applies to all instruments whenever executed, and must, therefore, be held to override the special provision of s. 10 of Bom. Reg. XVIII. of 1827, according to which no instrument requiring a stamp thereunder was valid unless duly stamped.—GURPADAPA BIN IRAPA *v.* NARO VITHAL KULKARNI, I. L. R., 13 Bom. 493.

Act I. of 1879, s. 34, prov. 3.

The plaintiff sued to recover the amount due on three *khata*s. The defendant objected that the *khata*s were not duly stamped. The Subordinate Judge held that the instruments were bonds, and, as such, admitted them in evidence on payment of the proper stamp-duty and penalty under s. 34, prov. i., of the Stamp Act (I. of 1879).

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At a subsequent stage of the same suit, his successor in office was of opinion that the *khata*s in question were promissory notes; that, as such, they could be stamped only at the date of their execution; and that they had been illegally admitted in evidence under s. 34, prov. i. He accordingly dismissed the suit. On appeal, the District Judge agreed with the Subordinate Judge that the instruments sued on were promissory notes, but held that, after they had once been admitted in evidence on payment of the stamp-duty and penalty, the question of their admissibility could not be subsequently raised in the suit under prov. iii. to s. 34, of the Stamp Act (I. of 1879). He, therefore, reversed the decree of the Subordinate Judge, and remanded the case for trial on the merits. Against this order of remand, defendants appealed to the High Court. Held that the promissory notes, having been once admitted in evidence, could not afterwards be rejected on the ground of their not being duly stamped. Held also that, under s. 578 of the Code of Civil Procedure (Act XIV. of 1882), the High Court could not interfere with the order of remand, as it was not an order which affected the merits of the case or the jurisdiction of the Court.—DEVACHAND *v.* HIRACHAND KAMARAJ, I. L. R., 13 Bom. 449.

Act I. of 1879, s. 37 (b).

Under the provisions of the Stamp Act, 1879, the duty chargeable on an insufficiently stamped document must be decided with reference to the Act in force at the date of the execution of the document, but the penalty leviable is determined in all cases by s. 37 (b) of the Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 5 Mad. 394.

Act I. of 1879, s. 41.

The plaintiff in a suit upon a certain instrument not duly stamped was compelled to pay the amount of duty and penalty. The defendant was the person bound to bear the expense of providing the proper stamp for such instrument. The plaintiff, with reference to s. 41 of the Stamp Act, 1879, sued the defendant to recover such amount. Held that such amount could not be regarded as part of the costs in the suit in which it was paid, and a separate suit to recover it was maintainable.—ISHAR DAS *v.* MASUD KHAN, I. L. R., 6 All. 70.

Act I. of 1879, s. 46, Sch. I., arts. 5 (c), 44.

A license issued to an arrack-renter expressly required as one of its conditions that the licensee should deposit a sum equal to three months' rental as a security for the

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due performance of the contract. The licensee executed a muchalka, stating that he agreed to all the terms and conditions mentioned in the license. *Held* that the muchalka ought to be stamped with an eight-anna stamp. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 15 Mad. 134.

Act I. of 1879, s. 46, Sch. I., art. 16.

Where property subject to an incumbrance is sold by auction in execution of a decree, the sale-certificate should be stamped according to the amount of the purchase-money, and not according to the amount of the purchase-money together with the incumbrance.—JWALA PRASAD v. RAM NARAIN, I. L. R., 15 All. 107.

Act I. of 1879, s. 49.

A bail-bond was executed to a District Munsif, who expressed no doubt as to the amount of duty to be paid, and made no application to have the case referred. The District Judge referred the case to the High Court. *Held* that the District Judge was not authorized to make the reference.—REFERENCE UNDER STAMP ACT, s. 49, I. L. R., 11 Mad. 38.

Act I. of 1879, s. 51 (d) (6).

A mortgage-deed, which provided for the transfer of possession of the mortgage-premises, was executed to secure the repayment of money to be advanced for the discharge of certain debts owing by the executant. The instrument was stamped, but not registered; and on its appearing that the amount of the debts in question exceeded the sum named the intended mortgagee refused to carry out the transaction, and the executants executed a deed of conditional sale of the same premises in favour of another. *Held* that the stamp-duty paid on the mortgage could be refunded under the Stamp Act (I. of 1879,) s. 51 (d) (6).—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 16 Mad. 459.

Act I. of 1879, ss. 61, 64.

Where the receipt of money exceeding twenty rupees, in satisfaction of a debt, is acknowledged by letter without a receipt-stamp being affixed, the writer is liable to punishment under s. 61 of the Stamp Act, 1879. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 8 Mad. 11.

Act I. of 1879, s. 67.

The second clause of s. 67 of the Stamp Act, 1879, is not controlled by the first clause of the section, which refers only to bills-of-exchange and promissory notes, but

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applies to all cases in which a document is executed with intent to defraud the Government of stamp-duty.—REFERENCE UNDER STAMP ACT, 1879, I. L. R., 9 Mad. 138.

Act I. of 1879, Sch. I., cl. 1.

Whether an account signed by a debtor in the books of his creditor amount to an acknowledgment within the meaning of the Stamp Act (I. of 1879), Sch. I., art. 1, is a question depending in each case upon the form and intention of the entry.—BINJA RAM v. RAJMOHUN ROY, I. L. R., 8 Cal. 282.

Act I. of 1879, Sch. I., art. 1.

A *nikash*, or balance sheet, made out and signed by a gomashtha of a business, showing a balance due by him to the owner of the business, is not an acknowledgment of a debt within the meaning of cl. 1, Sch. I., of the Stamp Act, and is admissible in evidence without being stamped. *Brojo Gobind Shaha v. Goluck Chunder Shaha* (I. L. R., 9 Cal. 127) followed.—NUND KUMAR SHAHA v. SHURNOMOYE (or SHURNOMOYE DAST) I. L. R., 15 Cal. 162.

Act I. of 1879, Sch. I., art. 1.

The question whether or not an allusion to a debt contained in a letter from a debtor to his creditor amounts to an acknowledgment of the debt within the meaning of art. 1, Sch. I. of the Indian Stamp Act, 1879, is a question in each case of the intention of the writer. Hence, where such a letter, written *ante litem motam*, before limitation in respect of the debt had expired, and at a time when other evidence of the debt was subsisting, was tendered in evidence as an acknowledgment of the debt for the purpose of saving limitation under the provisions of s. 19 of the Indian Limitation Act, 1877, *held* that the said letter was not inadmissible in evidence by reason of its not having been stamped.—BISHAMBAR NATH v. NAND KISHORE, I. L. R., 15 All. 56.

Act I. of 1879, Sch. I., arts. 1, 65.

The defendant, in two letters to the plaintiff in respect of certain contracts to sell Government securities, acknowledged his inability to give delivery, and after calculating the amount of the differences between the contract-prices and the market-prices on the dates of delivery, stated that the amount in respect of the first contract "is due to you, and payable on the 16th July," and that the amount in respect of the other contract was Rs. 515, "the whole amount of which will be paid up in full on the 3rd and 4th August." Both letters were stamped with a one-anna stamp. *Held* that they were insufficiently stamped, and

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inadmissible in evidence.—*MANICK CHUND v. JOMOONA DASA*, 7 C. L. R. 88.

Act I. of 1879, Sch. I., cl. 5.

A document was executed in these terms: "This document, a hand-note, is executed by me for the purpose of purchasing a *ghor*. I take from you Rs. 7. I will pay interest on the sum at half-anna per rupee per mensem. Having received the Rs. 7 in cash, this hand-note is executed." *Held* that the document was not a promissory note, nor a bond, but was an agreement to pay, and, as such, was chargeable with duty under cl. 5, Sch. I. of the Stamp Act. *Ferrier v. Ram Kulpa Ghose* (23 W. R. 403) referred to. — *MURARI MOHUN ROY v. KHETTER NATH MULLICK*, I. L. R., 15 Cal. 150.

Act I. of 1879, Sch. I., art. 5.

A document whereby the party executing it purported to sell his right, title, and interest in certain receipts for shares, and to execute in future a *pakka* document of sale thereof, and acknowledged the receipt of Rs. 10,001, *held* to be an agreement, and, as such, liable to a stamp-duty of 8 annas under Sch. I., art. 5 of the Stamp Act (I. of 1879), the property in the receipt not being intended to pass forthwith. — *HEPTULA SHEKH ADAM AND COMPANY v. ESAFALI ABDULALI*, I. L. R., 14 Bom. 316.

Act I. of 1879, Sch. I., art. 5 (a).

Correspondence having passed between the plaintiff and defendant relating to the sale of shares in a certain company by the plaintiff to the defendant, and the sale not having been carried out, the plaintiff, in a suit for damages against the defendant, sought to prove an agreement for sale from the letters, none of which were stamped. *Held* that the letters, though unstamped, were admissible as evidence of an agreement, since they did not constitute an agreement or memorandum of agreement. — *RAINIER v. GOULD*, I. L. R., 13 Mad. 255.

Act I. of 1879, Sch. I., arts. 5 (c), 144 (a).

In a contract for work to be performed, entered into by a contractor with the Executive Engineer of a district, it was stipulated that payments should be made from time to time to the contractor as the work progressed, and that the Engineer might retain 10 per cent. on the value of the work done to cover compensation for default on the part of the contractor, and as security for the proper performance of the contract. *Held* that this contract was chargeable with stamp-duty as an agreement under art. 5 (c), and not as a mortgage under art. 44 (a) of Sch. I. of the Stamp Act, 1879.—*REFER-*

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ENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 209.

Act I. of 1879, Sch. I., art. 5 (c).

By a rent-note dated the 28th July 1885, the executant, Babaji, agreed to take for five months from the executee, Hormasji, a certain pasture-ground attached to the military cantonment at Poona. The note recited that Babaji was to graze thirteen she-buffaloes, at Re. 1-10 per head on the pasture-ground for a consideration of Rs. 21-2-0 to be paid to Hormasji by two instalments: in default of payment of one instalment, the whole amount was to become payable at once. It further recited that, in case the debt remained unpaid beyond the fixed period, Babaji was to pay on the amount interest at the rate of two per cent. per month. The Collector of Poona was of opinion that the rent-note in question was a lease, and sufficiently stamped with four annas. The Inspector-General of Registration held the document to be an agreement falling under art. 5, cl. c, Sch. I. of the Stamp Act, and chargeable with a stamp-duty of eight annas. On reference by the Commissioner to the High Court, *held per* Birdwood and Parsons, JJ. (Nanabhai Haridas, J., dissenting), that the rent-note in question was an agreement, and as such chargeable with a stamp-duty of eight annas under cl. c of art. 5, Sch. I. of the Stamp Act (I. of 1879). *Held per* Nanabhai Haridas, J., that the instrument was a lease, and sufficiently stamped with four annas, growing grass being immoveable property within the definition of s. 2 of the General Clauses Act (I. of 1868). Should, however, growing grass be not regarded as immoveable property, the instrument was an agreement for, or relating to, the sale of goods, the price being fixed with reference to the quantity to be consumed by the cattle, and, as such, was exempt from stamp-duty under Sch. II., art. a, of the Stamp Act.—*In re HORMASJI IRANI*, I. L. R., 13 Bom. 87.

Act I. of 1879, s. 34 ; Sch. I., art. 11.

By a document, dated 8th March 1882, which purported to be a promissory note attested by three witnesses, and written on an impressed label of two annas, A promised to pay B before a certain date Rs. 135. *Held* that the document was a bond, and must be treated as unstamped for the purposes of s. 34 of the Stamp Act, 1879. By a document, dated 23rd June 1880, stamped with an adhesive stamp of one-anna, purporting to be a promissory note attested by two witnesses, A promised to pay Rs. 56 to B or order on demand. *Held* that the document was not a bond, but a promissory note.—*REFERENCE UNDER STAMP ACT*, s. 46, I. L. R., 8 Mad. 87.

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Act I. of 1879, Sch. I., arts. 11., 19, s. 67.

In determining whether a document is sufficiently stamped for the purpose of deciding upon its admissibility in evidence, the document itself as it stands, and not any collateral circumstances which may be shown in evidence, must be looked at. *Bull v. Sullivan* (L. R., 6 Q. B. 209). *Gatty v. Fry* (L. R., 2 Ex. D. 265), and *Chandra Kant Mookerjee v Kartik Charan Chaile* (5 B. L. R. 103) referred to. Where a cheque bearing a stamp of one anna was dated the 25th September, and the evidence showed it to have been actually drawn on the 8th September, and therefore to have been post-dated, it was contended that the cheque was really a bill-of-exchange, payable 17 days after date, and therefore inadmissible in evidence as being insufficiently stamped. *Held*, in a suit to recover the amount of the cheque on its being dishonoured, that it was admissible in evidence.—*RAMEN CHETTY v. MAHOMED GHOUSE*, I. L. R., 16 Cal. 432.

Act I of 1879, Sch. I., arts. 16, 21; ss. 21, 23, 24, 27.

Where a certificate of sale, granted to the purchaser of property sold by public auction under an order of Court, has expressly set out that such sale is made subject to the mortgage-right of a third party, the principal sum (but not the interest) due at the time of the sale on such mortgage is to be deemed "part of the consideration in respect whereof the transfer is chargeable with *ad-valorem* duty" under s. 24 of the Stamp Act; so that the whole consideration in respect of which such sale is, under arts. 16 and 21 of Sch. I. of that Act, liable to stamp-duty, is the sum of the purchase-money and the principal money so due on the mortgage. The certificate of sale therefore, whenever it is possible, should set out the exact amount that is due, at the time of the sale, in respect of the principal sum secured by the mortgage. *Semble*.—It is otherwise if the mortgage be only recited in the proclamation of sale, and not expressly set out, as an existing incumbrance on the property sold, in the certificate of sale. Arrears of interest due on the mortgage are to be excluded from such calculation, since s. 23 of the Stamp Act (which enacts that, "where interest is expressly made payable by the terms of the instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein") applies as much in this case as if the document of transfer, on which the stamp-duty was to be calculated, had been the document itself which stipulated for the payment of interest.—*SHA NAGINDAS JAY-*

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CHAND v. HALAKHORE NATHWA GHEESLA, I. L. R., 5 Bom. 470.

Act I. of 1879, art. 21, Sch. I.

Eight persons, the owners of a tea-estate, purported to convey their rights in the estate to a company, the consideration expressed in the deed of conveyance being £43,320, payable in shares and debentures of the company taken at *par*. The only shareholders or debenture-holders of the company were the eight persons who purported to sell the estate to the company. *Held* that, although the conveying parties were the shareholders of the company, there was just as much a sale and transfer of the property and a change of ownership as there would have been if the shareholders had been different persons and that the proper duty payable on the conveyance was therefore that mentioned in art. 21, Sch. I. of the Stamp Act.—*In re THE KONDOI TEA CO.*, I. L. R., 13 Cal. 43.

Stamp Act (I. of 1879), Sch I, art. 21.

An instrument, which is in terms a conveyance of property at an agreed value, is a sale of such property at that price, and is governed by art. 21, Sch. I. of the Indian Stamp Act (I. of 1879). The circumstance that the transaction is a part of a larger transaction cannot affect the character of the instrument. — REFERENCE UNDER STAMP ACT (I OF 1879), s. 46, I. L. R., 20 Bom. 432.

Stamp Act (I. of 1879), s. 46, Sch. I., art 21.

The amount payable on a conveyance under the Stamp Act, Sch. I., art. 21, is properly calculated on the consideration set forth therein, and not on the intrinsic value of the property conveyed. — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 20 Mad. 27.

Act I. of 1879, Sch. I., cls. 21, 60; s. 2.

In consideration of a sum of £87,500, two coffee estates, opened out on land held under a lease for fifty years, together with the mining rights therein, also held under lease for a term of forty-eight years, were transferred by the deed for the residue of those terms. *Held* that the stamp-duty payable on the transfer-deed was to be regulated by the provision of cl. 60 of Sch. I. of the Stamp Act, 1879 — REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 5 Mad. 15

Act I. of 1879, Sch. I., arts. 21, 60 (b).

Where a transaction is in substance a sale of a share in a partnership, and the transfer of a share in a lease only forms part

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of the subject-matter of the sale, as being a part of the partnership assets, the transaction should be regarded, not as the transfer of a lease, but as the sale of a share in a partnership, and the duty payable in respect thereof should be that falling under Sch. I., art. 21, of Act I. of 1879—*In re THE MENGLAS TEA ESTATE*, I. L. R., 12 Cal. 383.

Stamp Act (I. of 1879), Sch. I., arts. 21, 60 (b).

When, by one and the same deed, there is a conveyance of freehold lands and goodwill, and a transfer of interest secured by leases, the deed should be stamped under art. 21 of Sch. I. of the Stamp Act (I. of 1879), with an *ad-valorem* duty on the conveyance of the freehold property, goodwill, buildings, and erection, and under art. 60 of the Schedule with a duty of Rs. 5 on the transfer of each of the interests secured by the leases.—*IN THE MATTER OF A REFERENCE FROM THE BOARD OF REVENUE UNDER S. 46 OF THE STAMP ACT, 1879*, I. L. R., 23 Cal. 283.

Act I. of 1879, Sch. I., art. 22.

Art. 22 of Sch. I. of the General Stamp Act (I. of 1879) does not apply to a copy contemplated by s. 62 of the Civil Procedure Code (Act XIV. of 1882), the attestation of which copy by the Court or its officer being not made on the application of the owner of the copy, but solely in consequence of the express direction of the Code, with a view to its being filed for the purpose of identifying the book-entry when produced at the hearing.—*KRISHNAJI SADASHIV RANADE v. DULABA*, I. L. R., 15 Bom. 687.

Stamp Act (I. of 1879), Sch. I., art. 22.

Held that a copy of an order passed by a Municipal Board on a petition presented to it, and certified as a true copy by the Secretary to the Board, came within art. 22 of the first schedule to the Indian Stamp Act, 1879, and required to be stamped. The Secretary of a Municipal Board is a public officer within the meaning of art. 22 of the first schedule to the Indian Stamp Act, 1879, for the purposes indicated therein.—*REFERENCE UNDER S. 46 OF ACT I. OF 1879*, I. L. R., 19 All. 293.

Act I. of 1879, Sch. I., arts. 25, 36.

Where a donee was directed in an instrument of gift of certain land to maintain the donor out of the profits of the land *held* that the instrument was liable to stamp-duty as a gift, and not as a declaration of trust.—*REFERENCE UNDER STAMP ACT, s. 46*, I. L. R., 12 Mad. 89.

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Act I. of 1879, Sch. I., art. 27; Sch. II., art. 11 (a).

By art. 11 (a) of Sch. II. of the Stamp Act, 1879 (which exempts from duty the entry of an advocate, vakil, or attorney on the roll of any High Court when he has previously been enrolled in a High Court established by Royal Charter), a vakil on the roll of the High Court, Madras, who applies to be entered on the roll of advocates, is exempted from the duty prescribed by art. 27 of Sch. I. of the said Act.—*In re PARTHASARADI*, I. L. R., 8 Mad. 14.

Act I. of 1879, Sch. I., art. 38.

Ambai, who was a childless Hindu widow, acknowledged the fact of the due adoption of Ravbhaji, by a deed which recited that she having been childless had asked the father of the executee to give the executee in adoption, and he having consented, the executee was adopted with due ceremonies on the 1st August 1887. It further recited that the original name of the executee was changed, and the executee was thenceforth to bear the changed name, and to get all the powers which usually vested in a son. The Commissioner, C.D., feeling doubt as to whether it could be treated as a deed of adoption, referred it for the opinion of the High Court. *Held* that the document was distinct from an adoption deed or authority to adopt so as to be liable to stamp-duty under Act I. of 1879, art. 38, Sch. I., and that it was not liable to any-stamp duty.—*IN THE MATTER OF AMBAI*, I. L. R., 13 Bom. 280.

Act I. of 1879, Sch. I., art. 39; Sch. II., art. 13, cl. (b).

A *kabuliyat* or lease relating to immoveable property let to a tenant for any purpose other than that of cultivation is not such a lease as is contemplated by art. 13, cl. b, of the Stamp Act (I. of 1879), so as to be exempt from stamp-duty, but is chargeable with such duty under Sch. I., art. 39, of that Act.—*NARAYAN RAMCHANDRA v. DHONDU RAGHU*, I. L. R., 10 Bom. 173.

Act I. of 1879, Sch. I., art. 44, cls. (a), (b).

Per Cur.—Cl. a of art. 44 of Sch. I. of the Stamp Act, 1879, applies only to those deeds in which possession of the mortgaged property is given, or agreed to be given, at the time of the execution of the deed, or, in other words, where immediate possession of the property is given, or agreed to be given, by the terms of the deed to the mortgagees. *Per* Garth, C.J.—The principle of the distinction between the two classes of mortgages named in art. 44 is that, where the title to the land and the possession, or

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immediate right to possession, both pass to the mortgagee, the same duty is charged as upon a conveyance by way of sale; but, when the title only passes, and possession or the right to possession does not, the lower duty is chargeable. *Per Mitter, J.*—The word “given” in cl. a of art. 44 points out that only those transactions are intended to be covered where the transfer of possession takes place in consequence of the agreement on the part of the mortgagor to deliver over possession as part of the security for the mortgage-money; but, where the mortgagee becomes entitled to enter upon possession irrespective of the consent of the mortgagor to make over possession, cl. a will not apply. *Per Field, J.*—The Stamp Act is a Revenue Act, and the rule of construction of such Acts is that, in case of a doubt, the construction most beneficial to the subject is to be adopted. The words, “agreed to be given,” in art 44, cl. a, can only apply where there is an express or implied agreement to give possession; they will not apply where there is no such agreement, express or implied; but the effect of the document is such that a mortgagee has merely a right which he can enforce in a Court of law to obtain possession.—ANONYMOUS CASE, I. L. R., 10 Cal. 274.

Act I. of 1879, Sch. I., art. 44, cls. (a), (b)

A mortgage-deed, dated the 4th August 1883, stipulated that possession was to be given to the mortgagees after the 31st May 1883, if the mortgage-loan was not entirely repaid by that date. On the question being referred to the High Court, whether cl. a or cl. b of art. 44, Sch. I., Stamp Act (I. of 1879), applied to the case, *held* that cl. b applied. The intention of cl. a is to cover cases of mortgage with possession, and the words, “agreed to be given,” are to be read as if the words, “at the time of execution,” immediately followed and qualified the word “given.” Cl. a should be read as if it were worded “when possession of the property . . . is given by the mortgagor at the time of execution, or is agreed to be then given,” and not “. . . is then agreed to be given.”—HINGANGHAT MILL COMPANY, LIMITED, v. REKCHAND, I. L. R., 8 Bom. 310.

Act I. of 1879, Sch. I., art. 44 (b), s. 3 (13); Sch I., art. 29, art. 5 (c).

By an agreement made the first day of September 1884, A, in consideration of Rs. 1,000 to be advanced to him by B, assigned to B the whole crop of coffee then growing upon a certain estate, upon trust, *inter alid*, to secure the repayment of the sum advanced. It was stipulated that A should cultivate the crop till maturity, and

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deliver it to B. *Held* that this document was a mortgage liable to duty under art. 44 (b) of Sch. I. of the Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 8 Mad. 104.

Act I. of 1879, Sch. I., art. 46; Sch. II., cl. 2; ss. 11, 34.

The plaintiffs sued to recover damages for the non-acceptance of wheat, which the defendant, on the 16th May 1889, by two contracts, agreed to purchase. At the hearing, in order to prove the terms of the contracts, the plaintiffs tendered two notes, or memoranda of the contracts, which purported to be signed by the broker and also by the defendant. These notes were, in fact, the sold notes which the broker had given to the plaintiffs. Each of these notes had been stamped with an anna stamp, but the stamp on one of them had not been cancelled at all, and the stamp on the other was without any mark of cancellation, except a small part of the first letter of the defendant's signature, consisting of a slightly curved line. On these notes being tendered in evidence, it was objected that they were inadmissible being unstamped, having regard to ss. 11 and 34 of the Stamp Act (I. of 1879). The Court allowed the objection, and rejected the notes. The plaintiffs then sought to prove the contracts by oral evidence, contending that the sold notes did not themselves constitute the contracts, but were only memoranda of parol contracts prepared by the broker for the information of the parties. They further contended that the documents might be regarded as agreements for the sale of goods, and exempt from stamp-duty, under cl. 2, Sch. II., or at all events admissible on payment of a penalty—ss. 7 and 34. *Held* that the documents in question were documents of the nature of note or memorandum chargeable under art. 46 of Sch. I., and were not exempt from duty under cl. 2 of Sch. II. *Held* also that the terms of the contracts were reduced to writing, and no evidence, except the documents themselves, could be given in proof of them—s. 91 of the Evidence Act (I. of 1872).—S. A. RALLI v. CARAMALLI FAZAL, I. L. R., 14 Bom. 102.

Act I. of 1879, Sch. I., art 50, cl. (b).

A document was given to P by thirty-six persons jointly interested in a certain sum of money authorizing him to appeal before a certain officer, and receive payment thereof. *Held* that the document was a power-of-attorney, and that consequently the proper stamp-duty was one rupee, leviable under the Indian Stamp Act, 1879, Sch. I, art. 50 (b).—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 9 Mad. 358.

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Act I. of 1879, Sch. I., art. 52.

A receipt by a municipality acknowledging payment of house-tax exceeding twenty rupees requires a receipt-stamp under Sch. I., art. 52, of Act I. of 1879.—*In re KARACHI MUNICIPALITY*, I. L. R., 12 Bom. 103.

Act I. of 1879, s. 3 (17) ; Sch. I., art. 52.

The defendant in a suit on a bond set up as a defence that the bond had been paid in part in sugar-cane juice, and, as evidence of this fact, produced a document called a "sarkhat," alleged to be signed by the plaintiff, acknowledging the receipt of sugar-cane juice, the price of which exceeded Rs. 20. There was nothing in the document which showed that the sugar-cane juice had been received in part-satisfaction of the bond. *Held* that the document was not a "receipt" within the meaning of the Stamp Act, 1879, but a memorandum of sugar-cane juice supplied, and required no stamp.—*DEBI PRASAD v RUPU*, I. L. R., 6 All. 253.

Act I. of 1879, Sch. I., art. 54.

A release chargeable with four annas stamp-duty was executed on paper bearing a one-anna adhesive receipt stamp. *Held* that, in calculating the stamp due, the one-anna stamp ought not to be taken into consideration. *Semle*.—A Collector is entitled under the Stamp Act, 1879, s. 50, to refer to the High Court the decision of a Provincial Small Cause Court admitting in evidence an insufficiently stamped instrument on payment of duty and a penalty.—*REFERENCE UNDER STAMP ACT*, s. 50, I. L. R., 15 Mad. 259.

Act I. of 1879, Sch. I., art. 57.

Under art. 57 of Sch. I. of the Indian Stamp Act, 1879, stamp-duty on a settlement is to be calculated on the value of the property settled as set forth in such settlement. *Held* that these terms do not mean the value of the interest or interests created by the settlement, but refer to the value of the property settled, which, it was intended by the Legislature, should be set forth in the settlement.—*REFERENCE UNDER STAMP ACT*, s. 46, I. L. R., 8 Mad. 453.

Stamp Act (I of 1879) Sch. I., art 57.

An instrument called a trust deed by the party executing it was intended to have immediate operation. It vested the property in the trustees at once, and the provisions as to the management and the ultimate beneficial interest in the property showed that it was contemplated that its operation might extend beyond the lifetime of the owner. *Held* that the instrument fell under the de-

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inition of a settlement in the Stamp Act (I. of 1879), and should be stamped accordingly.—*REFERENCE BY THE COLLECTOR AND SUPERINTENDENT OF STAMPS, BOMBAY*, I. L. R., 20 Bom. 210.

Act I. of 1879, Sch. I., art. 36.

On the 3rd of April 1878, on which date the Stamp Act (XVIII. of 1869) was in force, A passed to B a document on plain paper, granting B an annuity charged on the revenues of a village. On the 24th of April 1879, the Stamp Act (I. of 1879) being then in force, A adopted C as her son, and C, three days afterwards, made the following endorsement upon the document: "I consent to act according to this sanad." *Held* that the instrument should be stamped with a single stamp as an instrument of gift, under art. 36, Sch. I. of Act I. of 1879.—*In re BHAVANIBAI*, I. L. R., 7 Bom. 194.

Act I. of 1879, Sch. II., art. 1 (b).

S, being desirous of obtaining copies of certain records in a suit in the Court of the Subordinate Judge of Sirsi, appeared before the nazir and clerk of that Court, and made an affidavit to the effect that she was the heir and legal representative of one of the defendants in that suit, and needed the copies for the purpose of producing them in a suit filed against her in the Court at Karwar. The affidavit, together with a duly-stamped application, was presented by her pleader to the District Judge, who, being of opinion that the affidavit should be on a stamped paper, referred the case to the High Court. *Held* that the affidavit was exempt from stamp duty under Sch. II., 1 (b), of the Stamp Act, I. of 1879.—*In re the APPLICATION OF SHESHAMMA*, I. L. R., 12 Bom. 276.

Act I. of 1879, Sch. II., art. 2.

An agreement for the sale of goods does not require stamp under the Indian Stamp Act, although it contains provisions as to the warehousing and insurance of the goods previous to delivery.—*JOHN KYD v. MAHOMED*, I. L. R., 15 Mad. 150.

Act I. of 1879, Sch. II., art. 2 (a).

By an agreement in writing the vendor agreed to sell, and the purchaser to buy, certain salt for a price to be paid at a future date. The salt was to be at purchaser's risk from the date of the execution of the agreement, and, if not removed within a certain time, to revert to, and become the property of, the vendor. *Held* that this document was exempt from duty under Sch. II., art. 2 (a), of the Indian Stamp Act, 1879.—*REFERENCE UNDER STAMP ACT*, s. 46, I. L. R., 10 Mad. 27.

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Act I. of 1879, Sch. II., art. 12 (b).

The question was whether a bond executed by the sureties of an officer of Government to secure the due execution of his office and the due accounting by him of "public moneys, deposits, notes, stamp-paper, postage-labels, or other property" of Government committed to his charge, was or was not exempted from stamp duty by the provisions of art. 12 (b) of Sch. II. of Act I. of 1879, regard being had to the words, "other property." *Per* Stuart, C.J., that such bond was one to secure the "due execution of an office," and the "due accounting for money received by virtue thereof," and nothing more, as the words, "or other property," must be taken to mean property of the same kind, as previously mentioned, and therefore "money" or the like of money, and such bond was therefore exempted from stamp-duty by the provisions of art. 12 (b) of Sch. II. of Act I. of 1879. *Per* Oldfield J., that, inasmuch as the words in art. 12 (b) of Sch. II. of Act I. of 1879, "or the due accounting for money received by virtue thereof," should be regarded as mere surplusage, and the "due execution of an office" and the "due accounting for money received by virtue thereof" be considered one and the same thing, and as the due accounting for property received by him by virtue of his office was the "due execution of his office," by the officer in this case, such bond was one for the "due execution of an office," and was therefore exempted from stamp-duty. *Per* Spankie, J., and Straight, J., that, inasmuch as the words in art. 12 (b) of Sch. II. of Act I. of 1879 could not be regarded as mere surplusage, and there was a distinction drawn by the Legislature between the "due execution of an office" and the "due accounting for money received by virtue thereof," such bond was not one for the "due execution of an office," and being one for the due accounting for "property," it was not one for the due accounting for "money," and therefore it was not exempted from stamp-duty.—REFERENCE BY BOARD OF REVENUE, N.-W. P., I. L. R., 3 All. 788.

Act I. of 1879, Sch. II., art. 13 (b).

A person whose occupation is that of a cultivator, and takes a lease of land for planting cocoanut-trees, is, in respect of that occupation, a "cultivator." A lease given by him is one exempt from stamp-duty under art. 13 (b) of Sch. II. of the Stamp Act (I. of 1879) if the annual rent reserved thereby does not exceed one hundred rupees.—RAMCHANDRA VASUDEVSHET *v.* BABAJI KUSAJI, I. L. R., 15. Bom. 73.

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Act I. of 1879, Sch. II., art. 13 (b).

Cl. b, art. 13, of Sch. II. of Act I. of 1879, exempts all leases executed in the case of a cultivator without the payment or delivery of any fine or premium, whatever the reserved or annual rent may be, provided it be for a definite term not exceeding one year, and also whatever the term may be, provided the annual rent reserved does not exceed Rs. 100.—*In re* BHAVAN BADHAR, I. L. R., 6 Bom 691.

Act I. of 1879, Sch. II., art. 13 (b), (c).

By the term "cultivator" in art. 13., Sch. II. of the Stamp Act, 1879, only those persons are connoted who actually cultivate the soil themselves, or who cultivate it by members of their household, or by their servants, or by hired labour, and with their own or hired stock. The class of husbandmen or actual agriculturists is meant; not farmers, middlemen, or lessees, even though cultivation may be carried on to some extent by such persons in the area covered by their lease. *Held*, therefore, where the land, the subject of a kabuliyat (counterpart of a lease), was for a large part not cultivable or susceptible of being treated as a "cultivator's" holding in any legitimate sense of that word, that such kabuliyat was not exempted from stamp-duty under art. 13 (c), Sch. II. of the Stamp Act, 1879.—STAMP REFERENCE, I L. R., 5 All. 360.

Act I. of 1879, Sch. II., art. 15 (a).

An endorsement on a mortgage, acknowledging the receipt of the sum thereby secured, is exempt from stamp-duty under Sch. II., art. 15 (a), of the Indian Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 10 Mad. 64.

Act I. of 1879, Sch. II., art. 15 (b).

Where a receipt in writing is given by the secretary or other manager of a club to a member acknowledging a payment above Rs. 20. on account of a club bill, it is liable to stamp-duty.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 10 Mad. 85.

Act I. of 1879, Sch. II., art. 15 (b).

A receipt given by counsel for a sum above Rs. 20, paid to him as a fee for professional services, is exempt from stamp-duty.—STAMP REFERENCE FROM THE BOARD OF REVENUE, N.-W. P. AND OUDH, I. L. R., 16 All. 132.

Act I. of 1879, Sch. I, art. 16.

Where the equity of redemption of an estate is sold in execution of a decree, the stamp-duty leviable upon the certificate of sale must be calculated upon the amount of

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the purchase-money only.—REFERENCE UNDER S. 46 OF STAMP ACT, I. L. R., 7 Mad. 421.

Act I. of 1879, Sch. I., art. 39 (a), (c),
(d), art. 44 (a).

By a document purporting to be a lease, certain land was leased for four years at a rent of Rs. 15 per annum. Out of the total rent it was stipulated that Rs. 50 should be paid in advance, and the balance Rs. 10 at the end of the term. *Held* that the payment of Rs. 50 in advance was not payment of a premium or fine within the meaning of art. 39 (c) of the Stamp Act, 1879. By a document purporting to be a rent agreement, the lessee took a shop for five years, agreeing to pay Rs. 30 per annum as rent, depositing one year's rent with the lessor, which was to be credited to the rent of the last year of the term. *Held* that the deposit of one year's rent with the lessor was not a fine or premium within the meaning of art. 39 (c) of the Stamp Act, 1879. By a document purporting to be an instrument of

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mortgage, the owner of certain land, being indebted in a certain sum, conveyed the land to his creditor for nine years in liquidation of the principal and interest of the debt. The creditor was to take the produce of the land, enjoy the profits or suffer the loss, and pay Rs. 35 per annum as rent. *Held* that the document was a lease with a premium liable to duty under art. 39 (d) of Sch. I. of the Stamp Act, 1879.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 203.

Act I. of 1879, Sch. I., art. 39 (b).

A mittadar executed a perpetual lease of certain villages for Rs. 1,954 per annum. Of this, Rs. 1,554-10 7, representing the Government peskhas, the lessor directed the lessee to pay to Government, and the balance Rs. 400 to himself. The lease was written on a 20-rupee stamp-paper. *Held* that the sum of Rs. 1,954 represented the rent, and that the stamp-duty was to be calculated thereupon.—REFERENCE UNDER STAMP ACT, s. 46, I. L. R., 7 Mad. 155.

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